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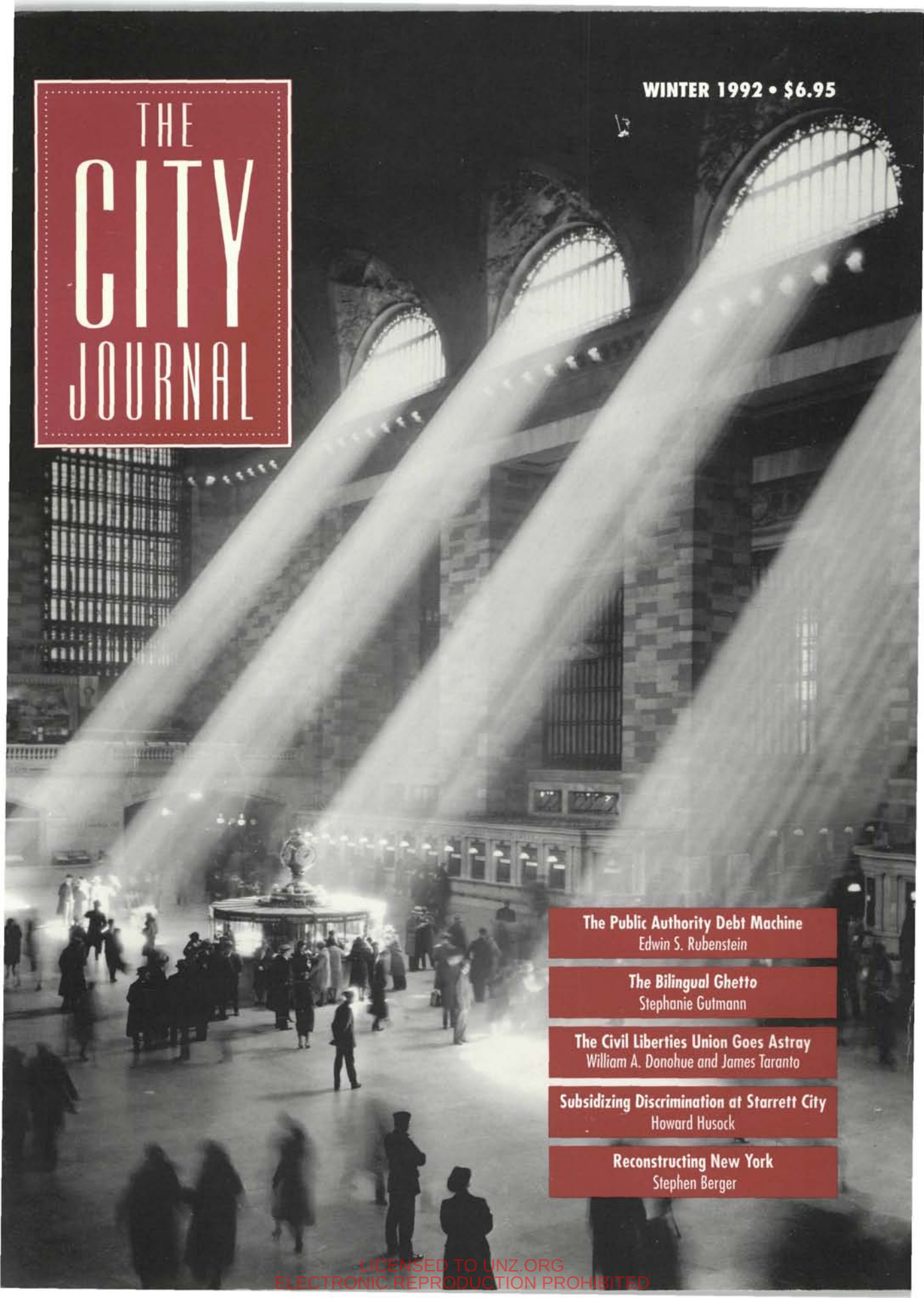

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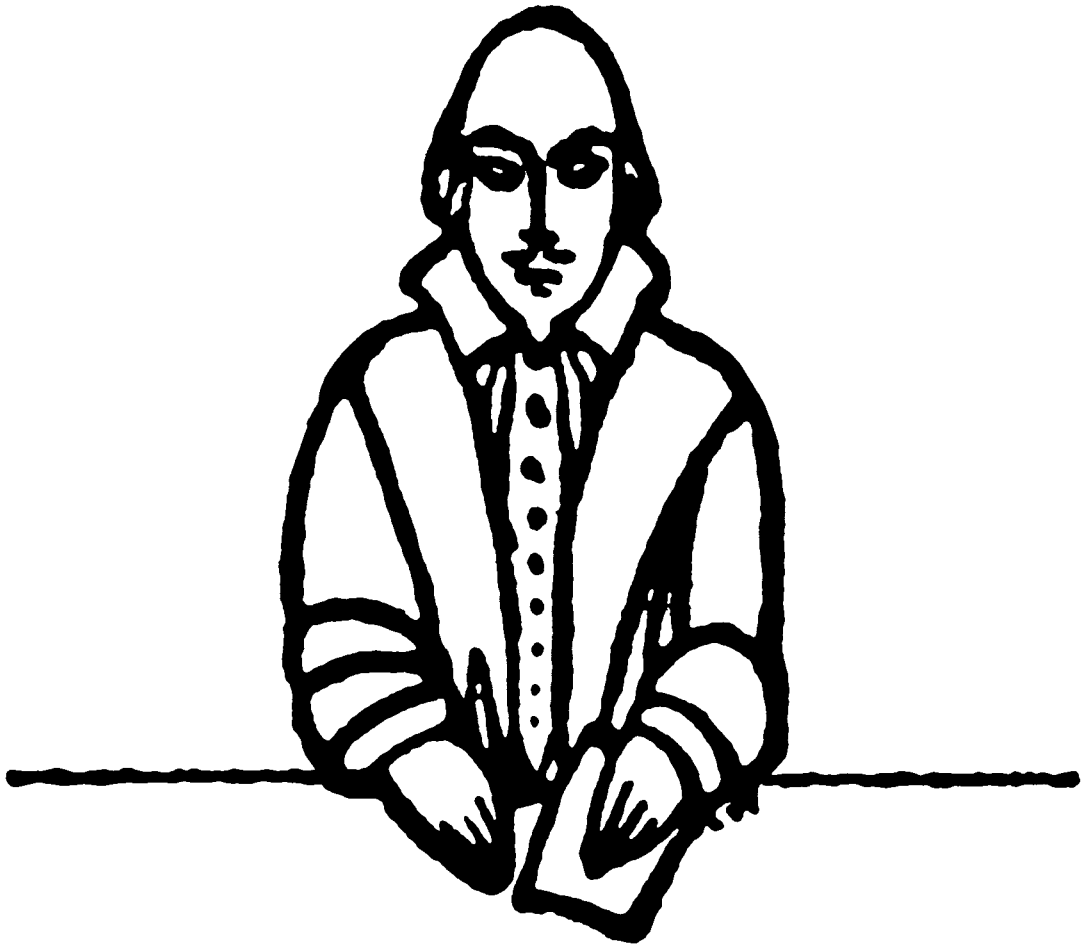

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THE CITY JOURNAL

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EDITOR'S JOURNAL

NEW YORK'S SINGULAR SUBWAY

Policymakers in New York can learn a great deal by studying the ways other cities do things. But New York, as the saying goes, is different with a capital D. Searching out precisely how New York differs from other cities is urgent business for anyone who would prescribe remedies for the city's problems.

One of the most important differences is mass transit. In a recent Cato Institute paper, Jean Love and Wendell Cox demonstrate that the massive federal investment in urban mass transit in recent decades has been a waste of money. In the cities they examine—from Washington, D.C., to Miami, from Buffalo to Atlanta—they find that ridership has fallen considerably below the levels projected when these transit systems were planned. Nor have promised benefits, such as cleaner air or the end of urban flight, materialized. Of all the kinds of mass transit that have been funded by grants from Washington, rail-based rapid transit has proved the most expensive, the least traveled, and the least adaptable to the population movement that has characterized American cities over the last thirty or forty years.

The Cato Institute's conclusion is simple: The Federal Government should stop funding monopolistic public transit systems and avoid major investment in fixed facilities such as tracks, which can only be used for rail transport. Instead, it should encourage cities to turn to competitive, privately owned van lines and other forms of transit that emphasize flexibility.

This recommendation is clearly valid as it applies to the many mid-sized cities that have installed mass transit systems out of little more than an obstinate vanity. But mass transit is

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absolutely essential to the survival of New York as the nation's preeminent city. Without federal aid, New York cannot maintain the rail system it urgently needs.

New York built its transit system years ago with its own money and, until very recently, operated and maintained it without federal assistance. But New York's subway system was built before federal and state income taxes began draining resources from the city on a massive scale, making it impossible for residents of the city to take care of local problems without the return of some of these taxed resources in the form of subsidies and grants.

New York is alone among American cities in its dependence on mass transit. Its rail system is by far the biggest in the nation: The track mileage is greater than that of the next five largest systems combined. Without the extensive rail and bus network, commuters would be unable to get to work in Manhattan. In New Jersey and New York's suburban counties there is a crying need for circumferential routes so that people can commute between the various sectors of the suburban ring. But transportation into and out of the city is even more critical: Without the radial transport lines, and those inner lines that connect the city's parts, New York would suffer even more serious traffic jams than it does today. Schools, hospitals, businesses, and entertainment facilities would find it increasingly difficult to function.

The difference between the New York rail transit system and those of most other American cities is that New York's system is old enough to have shaped the growth of the city after its construction, whereas other systems, imposed recently on already grown cities, are still waiting for riders who are unlikely ever to appear.

With elevated lines dating back to the 1870s and its first underground line opening in 1904, and with rivers constituting formidable natural barriers to movement between its boroughs, New York is the product of its mass transportation system. If the subways had not been built, not only would unification of the five boroughs have been impossible, but the concentration of the working population in downtown and midtown Manhattan could never have been achieved. The layout of the subway lines and, in particular, the location of the stations were instrumental in directing the pattern of real estate development and housing throughout the boroughs.

Without the subway system, New York would not have grown to its present size, and satellite cities like Hartford and Newark would probably have followed different patterns of development. New York's housing would more closely resemble the relatively low-density development patterns of other American cities. The six-story walk-up building, known as the Old-Law or the New-Law tenement house, would be no more characteristic of New York than it is of Boston, and the proportion of the population living in one-, two-, and three-family houses would be greater. Today New York is the only American city in which 70 percent of the population lives in rented apartments. Moreover, without the population density made possible by mass transit, New York would not be the culturally diverse city it is today: Fewer racial and ethnic groups would have gathered in large enough numbers to be a significant cultural presence or to demand recognition as such in the political process.

Today New York's economic problems are complicated by the high cost of maintaining its mass transit system and adapting it, where possible, to respond to a changing population. Even so, it is futile to imagine New York City without mass transit, and unrealistic to imagine that because Miamians see no compelling reason for using mass transit, the same must be true for New York.

New York City is a dense artifact of mass transit, and while its managers must do their best to reshape the system to meet current needs, the city could as easily do without the Atlantic Ocean as without its imperfect but essential mass transit lines.

—RS

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LETTERS

Credibility Gap

Steven Craig's forceful question in your Autumn 1991 issue, "Where has the city's money gone?" could as well have been addressed to Albany: "Where has the state's fiscal credibility gone?"

As Doug Schoen, the well-known political consultant, put it to a group of friends, "In no other state would there exist such a gap between the leaders and the people on [the] issue of cutting taxes and increasing spending." Later he explained that if such a gap occurred in another state, its duration would be short. The public, he said, would be alerted to the discrepancy by a vigorous campaign for the governorship or a series of fighting commentaries in the newspapers. Seeing themselves held to account, legislative and executive leaders would recognize that the public will not tolerate the inevitable one-shot revenues, rollovers, borrowing, and other gimmicks that such inconsistent policies cause.

Even in New York, five years of this fiscal chicanery should have been a legitimate news story. Reporters could have pointedly asked their state legislators and the Governor five or ten years ago why they support the nation's most costly (by a multiple of two) Medicaid program without insisting on fundamental reform. Readers would also have enjoyed reading their answers about why the state was "selling" such institutions as Attica prison, Interstate 84, and Aqueduct race track to balance budget expenditures.

The fiscal behavior of the state's leaders has been so transparently bad for the past five years that there are dozens of opportunities for such stories. And it would not have taken many such stories to create an informed, presumably aroused public.

I once described such an opportunity to a gathering of the state's newspaper publishers. They had invited me to outline the elements of the fiscal crisis at their annual meeting on March 4, 1991. I told them that in 1987 when tax cuts and spending increases were simultaneously scheduled, I became alarmed. So starting in January of that year I mounted a campaign—saying that you cannot have tax cuts (which I generally favored) unless they are accompanied by spending restraint. I reported that deep structural deficits were being created, and that the fiscal stability of the state was dangerously eroding. I expounded this message for two-and-one-half years to editorial boards and every chamber of commerce and taxpayer group in the state and in letters and reports to the Governor and Legislature, all accompanied by press notices and releases. Then I told the publishers the unfortunate but accurate punchline—namely that we knew of virtually no newspapers that carried this story.

Members of the press themselves have pointed to lost opportunities.

- Bob Laird, the deputy editorial page editor of the *Daily News*, in an op-ed column this August, said, "The New York City media have almost completely ignored a real and important story"—my lawsuit against the Governor to block a shabby state borrowing.
- Ray Kerrison, writing in the *New York Post* in October, said, "Two weeks ago Regan released an audit of a state government program [wasteful staffing patterns in the state mental health system]. The findings . . . should have hit the front pages, instead they hardly caused a ripple."
- This November Wayne Barrett reported in the *Village Voice* on the manipulation of the funds of the Municipal Assistance Corporation (MAC), which took place "unencumbered by even one line of news coverage in any daily about Regan's latest analysis of MAC practices."

The events of each budget crisis are routinely reported, but the facts underlying the chronic fiscal bind only rarely so. A 13-year veteran of the Legislature told the *Buffalo News* on November 29 that "the [fiscal] problem hasn't been addressed because we always—through a number of what can best be described as ruses—got by." He must wonder why he was not asked each year by the press about the "ruses," just as an increasingly frustrated public wonders why the fiscal crisis seems to repeat itself.

Edward V. Regan
State Comptroller
Albany, N.Y.

School-Based Management

Stephanie Gutmann's article on New York City's School-Based Management (SBM) reform ["Fernandez's Quick Fix," Autumn 1991] points out a number of real problems with implementing school restructuring in New York City, but it doesn't explain well enough what this reform is all about or that it is far too early to tell whether it has succeeded or failed.

Actually, the problems were well foretold by 25 inner-city principals who were asked what would

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be needed to make SBM work, as part of the Principals Speak project. In more than one hundred hours of interviews, these principals warned of virtually all of the issues Ms. Gutmann now raises: the need for clear goals, strong leadership, parent involvement, real partnership with all participants, etc. But they also made clear that this would be a long and difficult process in a school system so deeply entrenched in a different way of operating.

Our analysis of their testimony in the light of current research on school restructuring convinced us that, to be effective, SBM has to be based on more than just an effort to make sure that schools are "well-managed," as Ms. Gutmann's article suggests. It has to be based on a clear understanding that its purpose is "transformative," i.e., part of an effort to reach far higher levels of learning for children and a shift to collaborative roles and relationships to achieve these new levels.

David S. Seely
The Principals Speak Project
College of Staten Island
Staten Island, N.Y.

School-based management is, we believe, a foundation for instructional reform. The Chancellor needs now to insist on an educational focus for SBM, and accept teams and start-up strategies that differ from his model. He needs to complement his offer of autonomy to some schools with the standards, guidelines, and reduction in regulatory and contractual constraints necessary to make it work.

Ms. Gutmann's closing exhortation (let everybody go to the one school in New York she seems willing to say is good and "embarrassed colleagues be damned") misses the obvious point. Choice is great only if there are lots of great schools to choose from; SBM in its fundamental form aims to let individual schools find their own greatness. We don't see the wisdom of trashing a reform tool with this kind of potential before New York has had a chance to give it an honest try.

Jeanne Frankl
Executive Director
Public Education Association
New York, N.Y.

Jobs for the Homeless

Dennis Hirsch ["Workfare for the Homeless," Autumn 1991] calls for the city to challenge the right to shelter required under the *Callahan* v. *Carey* decree and to deny shelter to employable homeless who do not participate in employment and training programs. This proposal is predicated on the belief that a lack of motivation caused by living in the harsh environment of city-operated shelters is the most significant barrier residents face in reentering the employment market.

Contrary to Mr. Hirsch's assertion, the number of immediately employable homeless people is no greater today than it was in the early Eighties. Although there are many homeless individuals who would be able to live independently and reestablish community ties if they were able to obtain jobs and some social supports, many more have physical and mental barriers which must be overcome before they can work on employment skills.

The homeless system in New York City reflects the failure of many other national and local service systems to address the problems caused by the closing of state mental hospitals, the rise in substance abuse, the lack of affordable housing, the shrinking economy, and the weakness of the educational system. Many of our clients have lived through a succession of negative life experiences which have left them disconnected from themselves and isolated from the mainstream. Often they have not had the satisfaction of succeeding either in school or at work. Many have turned to alcohol or drug use; some have become or have been mentally ill.

A jobs program alone is not the answer. In order to address all of these issues comprehensively, a broad continuum of services is necessary. Furthermore, delivery of such services must occur in an atmosphere of dignity and compassion if they are to be truly effective. The New York City Five Year Plan for Housing and Assisting Homeless Families addresses those needs by expanding on a range of services which we have attempted to develop within the existing shelter system, and by proposing to house these service programs in smaller buildings designed specifically for this purpose and operated by experienced community-based service-providers. Only by offering the range of services to break through employment barriers can we reach the point where we can consider requiring enrollment in employment programs as a prerequisite to shelter.

Jeffrey L. Carples
Executive Deputy Commissioner
New York City Human Resources Administration
New York, N.Y.

Mr. Hirsch's errors of both law and history concerning the right of the homeless poor to shelter in New York should not obscure his central theme. Shelters that breed dependency, such as those run by the Dinkins Administration, are indeed "horrible."

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By definition a quality shelter is one that both preserves human life and—as quickly as possible—moves people out of shelters to permanent housing and, whenever practical, self-sufficiency. Nothing in the *Callahan* court orders undermines these objectives.

The problem with New York shelters since 1980 has been the means by which the city has complied with its court-ordered obligations to provide shelter. Simply put, there is no way out other than a return to the streets. For most of New York's homeless men and women there are neither jobs nor job-training programs. Any job paying subsistence wages is jumped at by the overwhelming majority of homeless, employable people. A public-works program paying homeless people (or other poor New Yorkers) a subsistence wage would be turning away applicants within hours.

Failure of the shelter policy is not limited, as Mr. Hirsch implies, to the employable homeless. No person, regardless of disability, should be relegated to a shelter for more than the briefest time. But when there are no drug-treatment slots available, and no psychiatric care available, and no remedial education available, emergency shelters inevitably become permanent refuges. That is bad for shelter residents, bad for taxpayers, and bad for the city. It can be changed, but not with the naïve imposition of an unarticulated workfare qualification for receiving shelter.

Offer a way out of shelters. For some the route out is a job, for others psychiatric or substance-abuse treatment, for others literacy training. Until we make the offer of a way out, abstract posturing about the motivations of shelter residents is beside the point.

Robert M. Hayes
O'Melveny & Myers
New York, N.Y.

(***Editor's note:*** Mr. Hayes is the attorney who represented the homeless plaintiffs in *Callahan* v. *Carey*.)

It is certainly true that many of the one-third or so potentially employable single adult homeless in the city shelters are willing to work; the problem is that they lack skills to qualify them for jobs that pay a living wage. Training programs that would open opportunities for higher-paying jobs or help many to become "job ready" are in very scarce supply. Faced with these obstacles, it is little wonder that many who are otherwise motivated become "shelterized" and suffer "loss of hope and will."

Fortunately, this pattern has begun to change somewhat: The federal Job Training Partnership Act (JTPA) has been refocused to target the "economically disadvantaged," and federal funding for development of low-income single room occupancy apartments has been dramatically increased.

As significant as this change in federal direction may be, however, the funding must be effectively used through local government if anything meaningful is to reach the homeless promptly. Unfortunately, there are already some signs that this may not be happening. A recent request for proposals issued by the city's Department of Employment excluded most voluntary agencies with programs providing job training for the homeless, thus frustrating the JTPA refocus. The city administration is opposing a City Council initiative to revise the city's building codes and regulations to stimulate SRO development, including new construction, by both private developers and nonprofit groups.

Our time would perhaps be better spent in ensuring that this promising federal redirection is properly implemented at the city level, rather than fiddling with a largely anachronistic legal decision which will not result in any additional jobs or job training for the homeless who can work.

Peter P. Smith
President
Partnership for the Homeless
New York, N.Y.

The Right Track

"Reform New York Racing? A Saratoga Perspective," by James MacGuire [Autumn 1991], captures the charm, beauty, and excitement of the Saratoga summer Thoroughbred meet, regarded by many as the finest thirty days of racing anywhere in the world. His history of New York Thoroughbred racing is equally captivating and for the most part accurate. However, no matter how many times it was written that NYRA turned down the management of OTB in the early 1970s, this is just not a fact.

I completely agree with Mr. MacGuire's assessment that, by common consensus, OTB has been "an administrative and fiscal disaster." As important, the author recognizes that the state's multibillion-dollar racing industry that employs more than forty thousand people across the state is in deep trouble, which can be overcome through fundamental changes in marketing. Such measures are currently under consideration in Albany, so I hope our lawmakers have read Mr. MacGuire's article.

Ogden M. Phipps
Chairman
The Jockey Club
New York, N.Y.

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Shutting Down New York

The current economic slump has brought development in New York City nearly to a halt, but these are boom times for antidevelopment activists like Jerry Goldfeder, a Manhattan lawyer who may have found a way to stop development in the city altogether.

Goldfeder wanted to stop the Columbus Center project, a 57-story complex of offices, stores, and apartments that Boston Properties planned to build at Columbus Circle on Manhattan's West Side. In 1990 he sued Boston Properties, New York City, the New York City Industrial Development Agency (which is helping to finance the project), and several other city and state agencies. He cast a wide net, alleging everything from violations of the federal Housing Act to failure to apply for the necessary permits for a parking garage.

Most of his claims were settled or dismissed. But Goldfeder found one argument that worked: He won a court ruling delaying the project because the city is in violation of the federal Clean Air Act.

The Clean Air Act compels the federal Environmental Protection Agency (EPA) to write and enforce national air-quality standards for various pollutants, including carbon monoxide. Each state must create an implementation plan to meet the EPA's guidelines. If a state or local government fails to fulfill any part of this plan, the law allows citizens to sue to force compliance.

It was under this provision that Goldfeder sued, alleging that New York City was in violation of the carbon monoxide standard set by the state implementation plan. New construction, Goldfeder argued, lures more automobiles into Manhattan and boosts carbon monoxide levels even further out of the legally permissible range. On these grounds he sought an injunction halting development on the site of Columbus Center until a new environmental impact statement is prepared showing how violations of the carbon monoxide standard would be avoided.

The defendants did not dispute Goldfeder's allegations. Instead, they argued that since the city is actively working to enforce its implementation plan, it is

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Richard Miniter is associate producer of the PBS program "TechnoPolitics," produced by the Blackwell Corporation . . . Edward N. Costikyan, a partner in the law firm of Paul, Weiss, Rifkind, Wharton & Garrison, is a former chairman of the Manhattan Democratic Party, vice chairman of the State Charter Revision Commission for New York City (1972-77), and a senior fellow of the Manhattan Institute . . . Kenneth Silber is a free-lance writer specializing in international economics and finance . . . Thomas W. Hazlett teaches economics and public policy at the University of California, Davis, and is currently visiting chief economist at the Federal Communications Commission (FCC). This article reflects only his views, and not necessarily those of the FCC.

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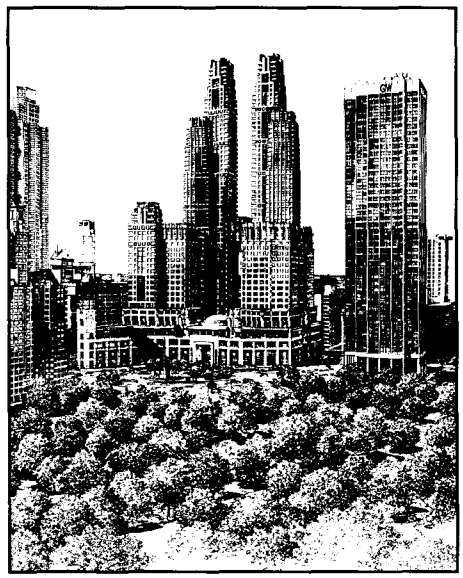
not in violation of the law. In July 1991, U.S. District Judge Shirley Wohl Kram ruled in Goldfeder's favor and awarded summary judgment.

Boston Properties is appealing the ruling. If it stands up, the city will likely be forced to deny all permits for new construction, because federal air-quality standards are next to impossible to meet. If the city falls out of compliance for any single pollutant for eight hours on any day of the year, it is considered to be a "nonattainment" area by EPA regulators.

The carbon monoxide standard at issue in Goldfeder's lawsuit is nine parts per million. Of the ten test sites near the proposed Columbus Center project, only one is expected to exceed the legally permitted level, according to the latest environmental impact statement. The air at the offending site is expected to exceed the carbon monoxide limit even if the project is not built. (Two other test sites are expected to reach but not exceed the legal limit.)



Columbus Center
(Artist's rendering)

According to the environmental impact statement, the site will experience carbon monoxide levels reaching 12.9 parts per million if the project is not built, and 13.3 parts per million if it is built. This is a statistically insignificant difference: Measuring instruments are imprecise, so the EPA requires that comparisons between carbon monoxide concentrations be rounded to the nearest integer. Thus, either figure would be rounded to 13 parts per million. Judge Kram acknowledged that "under this method of calculation the Project has no legally cognizable effect on carbon monoxide emissions at that site." It is a sign of the times that she did not dismiss the Clean Air Act charges on this point alone. Instead, she said that although individual projects may cause no measurable harm by themselves, they could nonetheless have a harmful cumulative impact. A succession of increases in carbon monoxide could be hidden if each were small enough to be overlooked in the rounding.

Judge Kram did not stop at holding the developers responsible for miniscule, hypothetical increases in carbon monoxide. She also invoked an EPA requirement that new projects "mitigate existing carbon monoxide violations, even those carbon monoxide violations not of the projects' own making." She ordered the city to come into compliance with its federally mandated carbon monoxide targets by November 15, 1992. If the city fails to meet this deadline, the temporary halt to construction at Columbus Center will become permanent, and the court will impose an immediate $15 million fine on the defendants, plus additional fines until the city comes into compliance. If the Columbus Center project is scuttled, the city will also lose some $500 million in subway improvements promised by Boston Properties.

If Judge Kram's reasoning is accurate, one can anticipate some minor increase in pollution resulting from any new building. Thus, her ruling would seem to entail a complete halt to development in New York City. But shutting down the city is an inefficient way to reduce pollution.

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In fact, the assumption that more cars mean more air pollution is not necessarily true. A University of Denver study, which measured tail pipe emissions from cars on the streets of several major cities, found that more than half of all carbon monoxide emissions came from only 10 percent of the cars and trucks on the road. In fact, 70 percent of vehicles comply with strict federal emissions standards, and thus produce no measurable pollution. "Most cars are as clean as my breathing," says Donald Stedman, one of the professors who conducted the study. Among cars less than one year old, only one in three hundred is out of compliance with federal standards. A 1989 EPA report backed up the University of Denver findings.

The best way to combat air pollution, then, would be to target those vehicles, mostly older cars, that produce the bulk of it. Of course, clean air is not Goldfeder's chief concern, as evidenced by the fact that his lawsuit cited a hodgepodge of other arguments against the project. For example, Goldfeder alleged that Boston Properties was in violation of state conflict-of-interest laws because an executive of another company involved in the project is a former MTA official.

Goldfeder, like the plaintiffs in his case, lives not far from the Columbus Center site. He acknowledges that he is motivated by a dislike for development. "If we wanted the project to go forward—if the neighborhood wanted the project to go forward—we would not have brought the lawsuit that we did," he says. "Obviously there is an antipathy toward large projects like this."

It is an antipathy that is shared by many political activists. At any one time there may be dozens of Goldfeders in courtrooms across the city working to halt construction for any number of technical reasons. Increasingly, environmental laws are their weapon of choice. For example, a report by New York State Senator Franz Leichter (D-Manhattan) called for a moratorium on development on the West Side because the North River sewage plant is reportedly overburdened. This report—believe it or not entitled "Trump Card or Royal Flush?"—was one factor leading developer Donald Trump to scale down his 14.5-million-square-foot Trump City proposal. Still another way to halt development is by invoking the federal Clean Water Act, with which the city is also currently out of compliance. That law allows judges to impose fines of up to $25,000 per day of violation.

More than half of all carbon monoxide emissions come from only 10 percent of the cars and trucks on the road

Environmental lawsuits can be a lucrative business. Several federal environmental laws, including the Clean Air and Clean Water acts, permit "citizen suits," which give just about anyone the right to bring past, present, or potential polluters to court. These are among the few U.S. laws that permit successful plaintiffs to collect attorneys' fees—although defendants must pay their own legal costs even if they win.

While individual lawyers may profit, developers and the city are left to pay the tab. All this might seem academic today, with the economy sagging and demand for new buildings wilting. But if judges, lawyers, and regulators succeed in erecting a gauntlet of rules to obstruct development, it is difficult to imagine how the city's economy will ever recover.

—Richard Miniter

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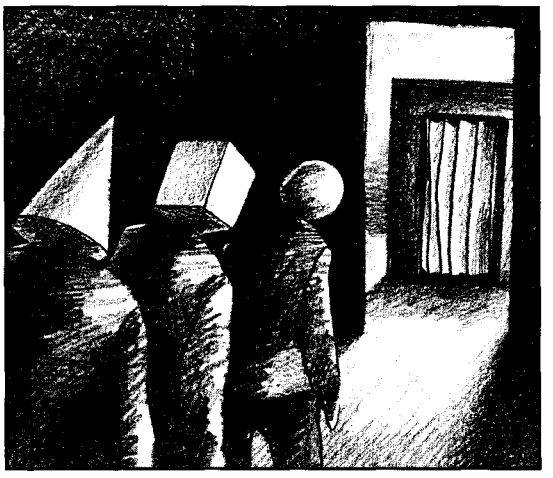
Ethnic Politics Lays an Egg

When should we applaud voter apathy? When is a low turnout a good omen? It is when, as in the 1991 City Council elections, it may hail an end to ethnicity as the basis of city politics.

Supporters of ethnic politics believed it was essential to rearrange council districts so that whites would elect whites, blacks would elect blacks, and so forth. They like to claim that New Yorkers have always voted by race or ethnicity, and that those troubled by redistricting are only complaining now because blacks and Hispanics are getting their turn to celebrate ethnic exclusivity.



They are wrong. The obsession with ethnicity is a recent phenomenon, dating only to the Seventies. Before that the most important factor in New York politics was party affiliation. The balanced ticket was a device to hold a polyglot party together, but it was never regarded as a tool to ensure mass voter support or interest. I was not elected leader of the New York County Democratic Party in 1962 because I was half Swiss and half Armenian; my successor, J. Raymond Jones, was not selected because he was black; and his successor, Frank Rossetti, was not chosen because he was Italian.

Under the old regime, an ethnic or religious candidate attracted ethnic or religious support when he was running for an office that no one with that candidate's background had ever occupied (e.g., Kennedy in 1960 and Dinkins in 1989). In other contests, bereft of issues that interested voters, ethnicity could give a candidate an edge, as it probably did for Cuomo in 1982 and D'Amato in 1980. But its significance in any result is unclear. Did D'Amato win because of his ethnicity, or because of Javits's last-ditch effort to return to the Senate, or both?

The results of the 1991 City Council primaries strongly suggest that the ethnic ethos remains of little interest to most voters, however much it may intrigue intellectuals or candidates in search of a power base outside the parties.

The 1991 turnout was dismal, despite what may be the most extensive media coverage of any primary in the city's history, with the possible exception of the 1961 Wagner-Levitt primary that effectively turned out Carmine DiSapio and the old "machine" party leaders, and brought in the Wagner "reform" Democrats.

The turnout in the 1961 primary, however, was in the 40 percent range (in my assembly district it was 55 percent). By contrast, the 1991 returns suggest that the turnout was closer to 10 percent than 20 percent, despite press reports of higher figures. The probable high was 26 percent in the third district in Manhattan, where more than 15,000 of about 60,000 eligible voters turned out, and where all the candidates were white and campaigned not on ethnicity but sexual orientation. The more common number was about half that.

In some districts that were carefully constructed to create specific ethnic enclaves, voters rejected candidates of the "appropriate" ethnicity and elected representatives of other ethnic backgrounds,

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such as Stanley Michels (7th), Kathryn Freed (1st), and Susan Alter (45th).

Of course, the supporters of ethnicity can find other reasons for the very low turnout. But the inference is very strong that the race-based politics that are thought to dominate New York City politics, and do dominate the national Democratic Party, lack general public support. Without such support, the effort to create ethnic balkanization simply will not wash.

The results also suggest that geographically based issues, such as the location of homeless shelters or the unsatisfactory operation of a major municipal sewage treatment plant, are far more important to voters than ethnic representation. One cause for the low turnout was probably the confusion created by the way the new lines were drawn. Voters did not recognize the districts in which they were placed and often were unfamiliar with the candidates, who seemed equally unfamiliar with the local issues that concerned voters. A resident of Morningside Heights, for instance, is far more interested in choosing a candidate familiar with his neighborhood's problems than an ethnic representative from a distant and unrelated part of the city with which Morningside Heights has been united by ethnic gerrymandering.

Yet elongated districts that defy New York State's legal requirement that districts be compact, contiguous, and convenient were the inevitable result of the effort to make ethnicity the major determinant of the redistricting process. Districts simply could not have been drawn that would both meet the state's criterion of compactness and also be ethnically uniform enough to guarantee the election of minority candidates. New York's ethnic groups no longer remain densely concentrated: Liberal antidiscrimination laws and the presence of large numbers of newly arrived minorities—including Asians, Hispanics, and most recently Eastern Europeans—have slowly and steadily diluted the ethnic concentrations of old neighborhoods. Just as second-generation Italians and Jews moved from Manhattan's Lower East Side to other parts of the city and to the suburbs, so now substantial numbers of Asians, Hispanics, and to a lesser extent blacks are moving. Comparisons of census data from 1960, 1970, 1980, and 1990 confirm this trend.

There is no reason to believe that these trends will not continue or that minority populations will elect to huddle in ghettos as they prosper. Indeed, the principal objections to the Districting Commission's work this year came from Hispanics and Asians who complained that the way the lines were drawn made it impossible to elect candidates of their ethnic group in proportion to their share in the general population. They took this complaint to the Department of Justice, but not even that determined body could find densely populated Asian or Hispanic areas big enough to constitute councilmanic districts.

It is probable that the citizens most likely to move outward and upward are also those most likely to vote. Thus, city politics will continue to become less racially segregated, despite all efforts to the contrary. The good news about the low turnout and the results of the City Council primaries is that ethnic politics may have gone directly into history without ever stopping at "current events."

—Edward N. Costikyan

The Mexican Connection

If Congress approves the free-trade pact currently being negotiated with Mexico, New York City will be a big winner, reaping a greater economic windfall than any other city in the United States. The pact, known as the North American Free Trade Agreement,

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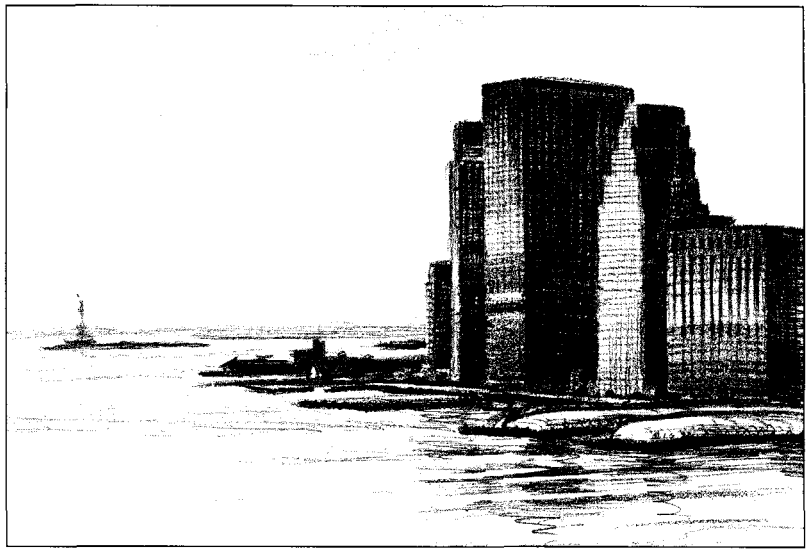

would create a free-trade zone encompassing the United States, Mexico, and Canada. Such a zone would favor industries in which New York is strong, and any possible negative impacts would be felt mostly by industries that are concentrated elsewhere. Nevertheless, most members of New York's congressional delegation have so far turned a distinctly cold shoulder to free trade.

The greatest beneficiary of the Mexican pact would be New York's financial services industry. Under current Mexican law, American banks, like other non-Mexican banks, are forbidden to make loans, accept deposits, or provide most other banking services. American insurance and securities firms operate under similarly severe restrictions.

New York City is home to most of the nation's largest banking, brokerage, and insurance companies. In 1990, they provided more than 390,000 jobs in the city—60,000 more than all manufacturing industries combined. If a free-trade agreement is signed, these financial services companies can be expected to become major players in Mexico's fast-growing economy. Moreover, Mexico could be a stepping-stone for U.S. financial institutions seeking to expand elsewhere in Latin America. The growth of financial services companies would create more jobs for New Yorkers and additional sales revenues for city businesses.

For New York manufacturing companies, the overall picture is similar. In 1990, according to U.S. Commerce Department figures, Mexico purchased $801.3 millions worth of New York State products, making it the state's eighth largest export market.

Yet significant barriers to manufacturing trade remain. Mexico imposes stiff tariffs on a wide range of goods produced by New York companies. For instance, the chemical industry, which provides some 17,000 jobs in New York City, is subject to duties of approximately 15 percent on its exports to Mexico—more than five percentage points above Mexico's average tariff rate. These barriers will fall if the free-trade zone is created, stimulating New York's exports.

Local exports to Mexico are currently hindered by nontariff barriers as well, such as weak protection of patents and copyrights. New York's export industries tend to be knowledge-intensive and therefore need strong intellectual property protection, which the free-trade agreement is likely to provide, according to Irving Williamson, a trade policy analyst at the Port Authority.

Some opponents of the pact argue that free trade may harm city manufacturers. The truth seems to be that some companies may be hurt, but on balance more New York manufacturers would benefit.

New York's manufacturing base has been steadily shifting toward high-end products made by highly skilled workers, and away from mass-market goods pro-

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duced by cheap labor. This trend means that the manufacturing industries best prepared to export to Mexico have grown, while those most vulnerable to competition from Mexican imports have shrunk.

According to a KPMG Peat Marwick econometric model, scientific and measuring instruments, currently New York's leading exports to Mexico, will be helped more by a free-trade pact than any other U.S. industry. Chemical companies and manufacturers of industrial machinery and computer equipment will also be among the largest gainers of jobs and production. Together, these industries accounted for 44 percent of New York's export trade with Mexico in 1990.

A U.S. Labor Department study points out that free trade with Mexico will probably cause job losses in the nation's apparel-manufacturing sector. But there is something quixotic about opposing a trade pact in order to protect apparel-manufacturing jobs: New York has already lost thousands of such jobs, particularly those for low-skilled workers, both to other parts of the United States and to foreign countries. The city's strength is in making high-fashion garments, where New York manufacturers benefit greatly from easy proximity to designers and buyers. These have little to fear from Mexican competition.

In fact, free trade is likely to push low-skilled apparel production toward Mexico that would otherwise go to more distant third world countries. Such a trend would improve the prospects of selling New York-made textiles to Mexican clothing manufacturers. Moreover, New York has become increasingly important in the distribution, rather than production, of apparel. Local fashion distributors can expect a boost from lower import prices following a trade pact.

Despite the economic windfall to New York, a majority of New York's congressional delegation opposes the Mexican free-trade pact. Last spring, ten of the city's 14 representatives voted against renewing the Bush Administration's "fast-track" authority to negotiate trade pacts, which is widely seen as crucial to the success of the talks.

Representative José Serrano of the Bronx, who opposed the extension of fast-track authority, acknowledges that increased exports might aid New York's economy, but has expressed concern that a free-trade agreement with Mexico could cost the city manufacturing jobs. Representative Charles Rangel of Manhattan, who also opposed fast-track, unsuccessfully sought an amendment requiring that trade talks be used to pressure Mexico to step up its antinarcotics activities. "If you spent a day on any street corner in my district and asked people what the government could do to make their lives better, you would never hear the words 'free trade with Mexico,'" Rangel said. "But I can tell you that every person you talked with would emphatically say something about illegal drugs." Yet closer economic links with Mexico might give the United States more leverage in demanding law-enforcement cooperation.

Mexico could be a stepping-stone for U.S. financial institutions seeking to expand elsewhere in Latin America

Some segments of the U.S. economy will be hurt by Mexican competition. In KPMG Peat Marwick's model, the biggest losers turn out to be fruit and vegetable producers and sugar refiners. Cucumber farmers in California may have rational, albeit parochial, reasons to oppose free trade with Mexico. New Yorkers do not.

—Kenneth Silber

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The Case for Cable Competition

Two years ago, when residents of the South Bronx finally had a cable television service to sign up with after a twenty-year wait, they were delighted. At long last, the folks across the street from Yankee Stadium could tune in Yankee games on their television sets. (Across the Harlem River, in Manhattan, cable had been available since the mid-1960s.) Urban Cable Systems, the enterprising firm that offered residents a forty-channel menu of news, sports, and entertainment, was doing a booming business.

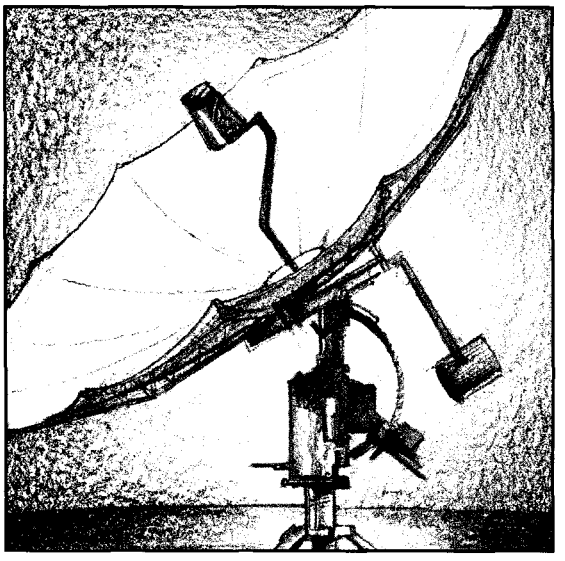
There was just one problem: Urban was operating illegally. In 1987, the company had applied for a franchise—the certificate giving it the city's permission to run wires through the streets—but the Board of Estimate never acted on its request. Frustrated, Urban began to wire the district in 1989 anyway. When its service was discovered by city officials, the company was forced to rip out its wires, leaving some of its customers without service until 1995, when Cablevision, the official Bronx franchise holder, is expected to start providing service to the neighborhood.

Obtaining a cable franchise is an expensive and politically demanding task, and the effect of the franchise system has been to restrict competition in the cable industry. New York City is forbidden by the New York State Constitution from giving any applicant an exclusive franchise, one which prevents another party from operating a competitive system on the same streets. But the city's practice of ignoring requests for competitive cable licenses has granted incumbent operators de facto monopolies. It has also fueled an unseemly rivalry for the political clout to obtain these monopolies and spurred allegations of corruption.

Most U.S. cities have cable monopolies. Of the approximately nine thousand U.S. cable franchises, only about 120 compete head-to-head with a rival company for subscribers. In those cities, subscribers get a cheaper and better deal than in the great majority of noncompetitively franchised cities. But local officials argue that exclusive franchising is good for consumers because it gives local governments the leverage to demand that companies offer universal service, making cable available to all parts of the city, including those less profitable to serve.

Local officials have less altruistic motives as well. In exchange for the franchises, they are able to extract valuable concessions from cable companies, such as subsidies for community and government programming and even cash. (Federal law restricts municipalities from imposing a franchise fee in cash that exceeds 5 percent of the franchisee's gross receipts from cable service.)

When Time Warner renewed its two Manhattan franchises in 1990 (the only cable franchises in that borough), the company made concessions to the city worth over $20 million. This included $8 million to build a studio for public use and $3 million to build the city its own television studio. Time Warner also agreed to spend $13 mil-



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lion to finance an "institutional network" for the city's courts, police, and firemen, but the state stepped in and reduced the amount to $8 million, a decision the city is challenging.

In addition to ensuring universal service, municipalities claim that franchising is necessary in order to protect public rights-of-way (the public spaces in which trenches must be dug or utility poles installed to carry the cables) and to shield consumers from high prices. But rights-of-way are already protected by laws that apply to other utilities, and the Cable Communications Policy Act (Cable Act) passed by Congress in 1984 made it illegal for most local governments to regulate prices.

The Cable Act deregulated every cable system in areas where viewers could receive at least three regular television channels over the air. (In 1991, the number was increased to six.) As a result, 97 percent of U.S. cable systems were deregulated in 1986; their prices can no longer be regulated, nor can franchises be denied renewal upon expiration. Secure in their monopoly status, cable companies have limited incentives for keeping prices low.

The rationale for government regulation has been further undermined by the growing popularity of "wireless cable," in which television signals are carried by microwave broadcast rather than over a cable line. There are limitations in this technology: Waves travel in straight lines and are blocked by structures in the path between the sending and receiving stations, and channel capacity is capped at 33 by current federal policy. Still, such systems require no franchising, offering the possibility of wider competition even in areas with monopoly cable policies.

Wireless cable offers the possibility of wider competition even in areas with monopoly cable policies

New York City's Department of Telecommunications takes its obligation to encourage competition very seriously, according to Christopher Collins, general counsel for the agency. He points out that the city favors giving telephone companies, which are among the companies most likely to compete, the right to offer cable service with the "appropriate safeguards" to protect telephone customers. He is skeptical about cable companies' desire to compete with established rivals, however. "The cost of constructing a cable television system is so high that in order for it to be economically feasible to have direct head-to-head competition, there would have to be a penetration rate of 70 percent, and each company would have to get 35 percent," he says. Yet the average penetration rate nationally is 64 percent and is increasing each year. While only 50 percent of the homes in the Manhattan franchise areas currently subscribe to cable, experience elsewhere indicates that the introduction of competition in similar markets often results in an immediate jump in the penetration rate to about 70 percent.

The "natural monopoly" argument—that it is not economically possible for two companies to compete and stay in business—is frequently used in defense of both exclusive franchising and practices that discourage competition. But the history of competition in places that do have more than one cable company suggests that the natural monopoly argument is weaker than it looks. In Sacramento, for instance, competition developed after several years of monopoly service. Until 1987, when they lost a suit filed by Pacific West Cable Company, the city and county governments

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had strenuously protected the exclusive franchise granted to Sacramento Cable Television. Pacific West argued that monopoly franchises were an unconstitutional abridgement of its right to publish under the First Amendment. A federal jury found that the local government's rationale for its exclusive franchise, particularly the notion of a "natural monopoly," consisted of "sham arguments." Under court order, Pacific West was granted a franchise.

Pacific West, however, ended up switching to the wireless cable system, which offered advantages in marketing. Local officials are delighted: "Consumers are using the threat of switching companies to get better service and prices," the chairman of the local cable commission told the *Wall Street Journal*. "Pacific West has gone from being a foe to a friend."

Competition followed a far smoother course in the Allentown, Pennsylvania, area, including nearby Bethlehem and Easton. Cable companies there have competed since the mid-1960s. No franchises specifically tailored to control cable operations are required in most of the more than fifty townships and cities involved; existing rules governing all types of rights-of-way on public property were found adequate to protect the public interest. Joe Rosenfeld, assistant to the mayor of Allentown for telecommunications, has described the competition in glowing terms: Prices are lower than elsewhere, while service is far friendlier and more reliable. Not only do both firms offer state-of-the-art channel menus, but they are also extremely responsive to consumer requests.

The advantages to consumers of competition have been confirmed by a number of studies. A 1990 *Consumers' Research* article found that 26 noncompetitive cable systems charged rates 18 percent higher than similar competitive systems ($17.31 per month for basic service versus $14.13). This mirrors my own finding that for a typical subscriber purchasing basic service plus one premium channel, charges are 23.5 percent higher for the monopoly system. In a July 1990 report, the Federal Communications Commission (FCC) noted that in a telephone survey of 13 competitive systems, rates per channel were 34.1 percent lower for basic service than for noncompetitive systems.

Last year the FCC issued a major study calling for new federal laws to encourage competition

Monopoly franchising has been singled out as grossly anticonsumer in a series of studies by federal agencies. Last year the FCC issued a major study harshly criticizing exclusive franchises and calling for new federal laws to encourage competition. The agency urged that local authorities be forbidden from unreasonably denying franchises to potential competitors or imposing rules whose intent or effect is to stifle competition. The Federal Trade Commission likewise has expressed concern that local governments, together with incumbent operators, may have used the cable franchising process to illegally restrict competition.

The benefits of competition in cable are similar to those found in other industries. The interests of the cities in thwarting competition are also similar to those that often drive government regulation, where the public interest falls prey to entrenched economic interests. Urban Cable's bid to champion the competitive solution to the consumer's choice problem is just one more battle in the long war between the consuming public on one side and regulatory boards beholden to the regulated companies on the other.

—Thomas W. Hazlett

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Cranking the Debt Machine

by Edwin S. Rubenstein

New York State was officially in debt by $29 billion at the end of fiscal 1991, according to the Comptroller's Office. But the problem is actually far worse, because this figure ignores more than $28 billion of the $52 billion of debt owed by the state's public authorities—nominally independent organizations such as the Port Authority and the Urban Development Corporation, whose budgets are separate from the state's. When this debt is included, the total rises to nearly $58 billion. (By contrast, California, with 12 million more residents and a fiscal crisis of its own, had a total debt of only $29 billion in 1990, the most recent year for which data are available.)

The Comptroller's Office excludes the $28 billion in authority debt because the state has no formal legal obligation to cover it if the authorities default. Yet history shows that when an authority cannot pay its debt, the state will do so even if no formal obligation exists. Indeed, the 1975 New York State fiscal crisis was triggered by the profligate borrowing of the Urban Development Corporation (UDC). When UDC defaulted on short-term notes not formally guaranteed by the state, Albany nonetheless stepped in and provided the necessary funds.

There is a growing danger of another such crisis. The total debt of New York's public authorities has more than doubled during the Cuomo administration, rising considerably faster than inflation or state spending. The total was $52.1 billion as of September 30, 1990—nine times larger than the state's general obligation debt.

This has happened because the original purpose of the authorities has been perverted. Public authorities were set up to insulate the public's business from overt political pressures, making it possible to apply "the best techniques of private management to the operation of self-supporting or revenue-producing public enterprise," in the words of Austin Tobin, executive director of the Port Authority from 1942 to 1971. Since they would not have to respond to the political pressures of the moment, public authorities would be able to carry out the sort of long-range planning necessary to run what are, in effect, large-scale businesses.

The Port Authority, established in 1921 as the first off-budget authority in New York State, has largely lived up to this promise. It operates much like a private company, providing transportation services and office space to customers on both sides of the Hudson. Its customers are generally well served, and it is an economically viable organization: Its bridges, tunnels, airports, and real estate ventures have always paid

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their own way, and taxpayer funds have never been required to pay off Port Authority bondholders. Moreover, in part because it must balance the interests of New York with those of New Jersey, the Port Authority has retained its independence from political pressure by state and local officials. Other authorities—generally those with a well-defined mission and a reliable source of revenue—have also remained above the political fray. Among these are the Power Authority, the Dormitory Authority, the Triborough Bridge and Tunnel Authority, and, despite its problems, the Metropolitan Transportation Authority.

But some state authorities have not retained a comparable degree of political independence. They are run like patronage mills rather than private businesses: Their payrolls are filled with political appointees, and the prime beneficiaries of their projects are big campaign contributors—investment bankers, contractors, real estate men, labor unions, and other political insiders. Their insulation from politics—essential to the operation of a good authority—also means that abuse is more difficult to detect and control. Thus, these authorities have become little more than "vehicles for the upward redistribution of income, shifting wealth from the average taxpayer to those who are best at accessing and manipulating government—usually more affluent New Yorkers," according to William Stern, former chairman of the Urban Development Corporation.

State authorities have also become a means for New York politicians to go into debt, circumventing voters' rejection of large bond issues to pay for costly projects. Because authority debt is technically not state debt, voter approval is not required. Yet these "back door" borrowings are often paid off with taxpayer funds appropriated by the Legislature.

Figure 1 illustrates the growth in authority debt. In 1960, state authorities accounted for only 45 percent of total state debt. During the 1960s, Nelson Rockefeller used the authorities to finance the construction of numerous public works projects; by 1970 the authorities accounted for 61 percent of the total debt. The demand for off-budget financing grew mightily during the tax revolt and fiscal crisis of the Seventies. By 1980 the authorities' debt share had risen to 84 percent.

The Cuomo administration has continued to use authorities to escape the will of the voters: State authorities accounted for 89 percent of New York's outstanding long-term debt in 1990, meaning that only 11 percent of the state's debt was approved by the electorate. Since 1983 the debt of state authorities has risen three times faster than direct obligations of the state.

Out of Business?

Public authorities were originally envisioned as temporary entities. The Housing Finance Authority and the Dormitory Authority, for example, were created to finance particular facilities and projects. They were to issue bonds, hire contractors, manage the construction phase, and lease the completed facility back to the state, which was to operate it. Once the bonds were paid off, ownership of the facility reverted to the state. At that point the rationale for the public authority ceased to exist.

To our knowledge, however, no public authority in New York State has ever gone "out of business." Instead they have become underground branches of government, free from the publicity and other restraints that regulate, however imperfectly, normal governmental operations. Today there are some thirty state authorities in all, of which 17 have significant debts outstanding (see box, page 20).

Indeed, the two fastest-growing authorities—the Medical Care Facilities Agency and the Energy Research and

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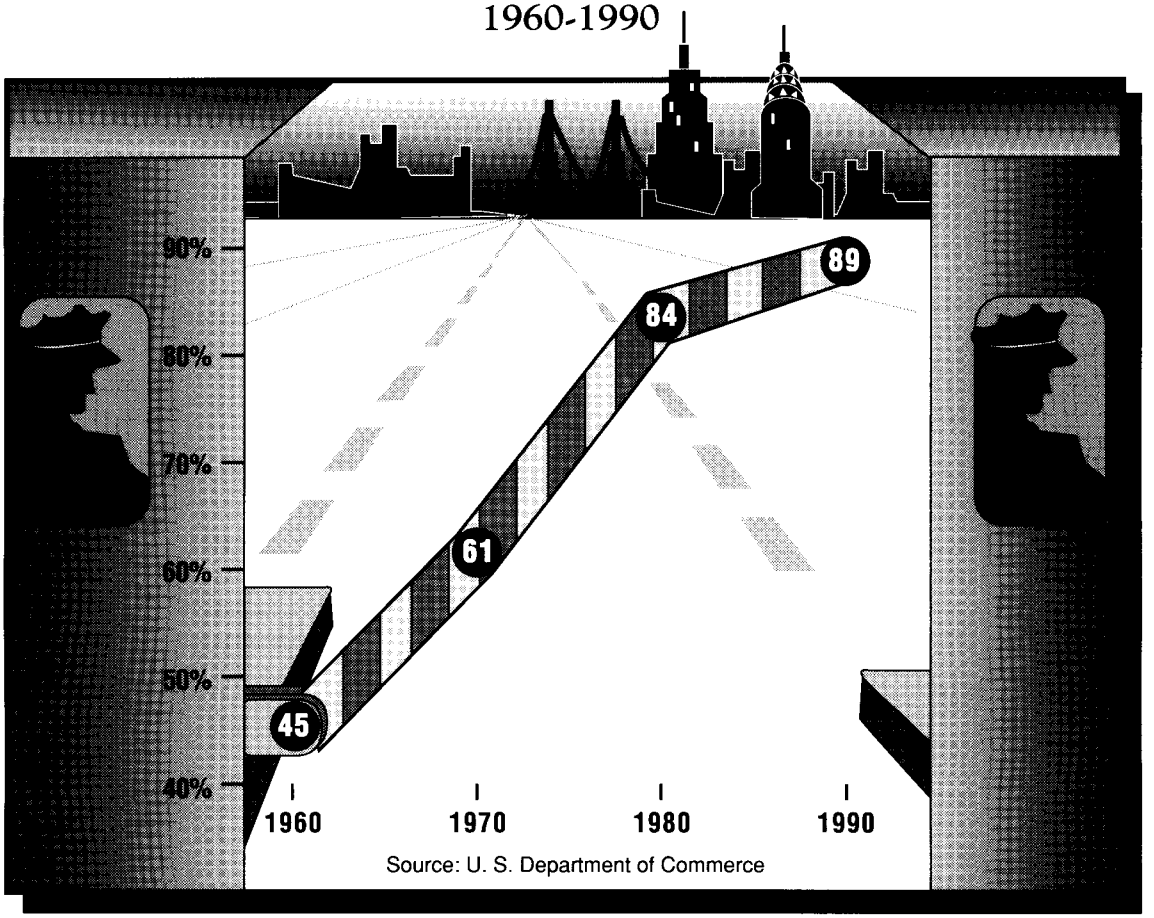
FIGURE 1

Public Authority Debt as a Percentage of Total State Debt 1960-1990



Development Authority—are virtually unknown to New Yorkers. The Medical Care Facilities Agency finances new plant and equipment for hospitals, nursing homes, HMOs, and mental health facilities. Its outstanding debt increased from $641 million to $5.89 billion, or more than nine times, over the past eight years. The Energy Research and Development Agency's mission, according to the executive budget, is to "help ensure that the State has secure, economical and environmentally acceptable supplies of energy for the future." The energy agency's outstanding debt has risen more than tenfold since 1982, from $327 million to $3.7 billion. Despite their enormous growth, the Comptroller has not audited either authority since the early Eighties.

To complicate matters further, some state authorities have created sub-authority affiliates to handle particular aspects of their activities. The Urban Development Corporation has more than ninety such subsidiaries, creating about five per year since 1982. Their names range from the familiar 42nd Street Development Corporation to the more obscure Upper Lake Redevelopment Corporation, Fresh Produce Corporation, and even the Overcoat Development Corporation.

State authorities have become governments unto themselves, operating in virtual secrecy, answerable neither to the

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AUTHORITIES WITH SUBSTANTIAL DEBT OUTSTANDING

Listed here are the 17 New York State public authorities that had substantial debt outstanding as of September 30, 1990. The amount of debt, in millions, is shown in parentheses.

Dormitory Authority. Handles financing, construction management, and equipment purchasing for higher education, health care, and other institutions. ($9,589)

Municipal Assistance Corporation (MAC). Created in 1975 to provide emergency financing for New York City and to oversee its fiscal affairs. ($6,901)

Medical Care Facilities Agency. Provides low-cost financing (through tax-exempt bonds) for hospitals, nursing homes, HMOs, and state and municipal health facilities. ($5,894)

Port Authority. Manages airports and port facilities in the New York metropolitan area, as well as Hudson River bridges and tunnels, the PATH rail system, and the World Trade Center. ($4,570)

Metropolitan Transportation Authority. Responsible for mass transit in the New York metropolitan area. ($4,008)

Power Authority. Finances, builds, and operates electric generating and transmission facilities. ($3,897)

Energy Research and Development Authority. Responsible for energy research and development, pollution-control and energy project financing, landfill and energy site management. ($3,700)

Triborough Bridge and Tunnel Authority. Oversees toll bridges and tunnels in New York City. ($3,292)

Housing Finance Agency. Finances public housing as well as nonprofit hospitals, nursing homes, municipal health, and state university facilities. ($2,915)

Mortgage Agency. Helps make mortgages and mortgage insurance available to first-time homebuyers. ($2,655)

Urban Development Corporation. Provides financing and technical assistance for industrial, commercial, and residential development projects. In recent years UDC has also financed state prison construction. ($2,327)

Battery Park City Authority. Created to manage the commercial and residential development of 92 acres of landfill in lower Manhattan. ($698)

Environmental Facilities Corporation. Provides financing and technical assistance to enable government and private industry to comply with environmental laws. ($574)

Thruway Authority. Operates the 559-mile New York State Thruway. ($348)

Job Development Authority. Makes low-interest mortgage loans to local industrial development agencies to finance private business and industrial projects. ($343)

Project Finance Agency. Provides long-term financing not otherwise available for UDC projects. ($197)

U.N. Development Corporation. Finances office space, hotels, and other facilities for the United Nations. ($161)

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Legislature, the Comptroller, nor the voters. The media have largely ignored the issue. Neither political party seems willing to make the authorities a political issue, probably because both Democrats and Republicans reap enormous patronage opportunities from them.

John Mitchell's Moral Obligation

It was John Mitchell, who was to become U.S. attorney general and a Watergate personage, who came up with the idea of using authorities to pay for programs that the voters rejected. The device he used was called moral obligation bonds. These bonds were secured by tolls, fees, rentals, or other revenues generated by a particular project. To protect bondholders, the state made a nonbinding promise—a "moral obligation"—to use its funds to make up any deficiencies in debt service reserve funds. In a 1984 interview with the *Bond Buyer*, Mitchell recalled how he originated the scheme:

> [When] Nelson Rockefeller was elected the Governor of New York in 1958, the voters turned down all of the propositions that had to be voted [on] under the state constitution—for housing, mental health, etc. His director of housing was telling me about the state's problems.
>
> In order to keep the interest cost down and have a security that would be marketable, I transferred over to the Housing Finance Agency (HFA) a concept [of moral obligation bonds] that had been used temporarily in connection with school districts.
>
> I just took that and adapted it to the Housing Finance Agency and structured the mechanics of it. It went very, very well and the bonds were marketable, the interest rates were more than reasonable, and, of course, we took it from there.

Within a few years HFA debt exceeded that of the state itself. By 1973 HFA had gone far beyond its original mandate of financing housing, becoming, in the words of Annmarie Walsh, author of *The Public's Business*, "an investment banker for a varied mix of public and private agencies, financing not only housing but hospitals, nursing homes, mental health facilities, youth and day-care centers, senior citizen centers, and the state university."

Meanwhile other authorities were created to pay for programs the voters had turned down. In 1961 voters rejected a higher-education bond issue for the fourth time; the Governor created the State University Construction Fund. In 1965 the voters rejected a low-income housing issue for the fifth time; the Urban Development Corporation (UDC) was established in 1968.

The moral obligation bond allowed Nelson Rockefeller to outrun both the voters and the state constitution. Agencies like HFA and UDC became explicit tools of the executive branch. Their operations are closely monitored by the Governor, who appoints their governing boards, and they are staffed in part by state personnel.

The unchecked rise in moral obligation debt was widely believed to be a major factor behind the 1975 fiscal crisis. (The New York City fiscal crisis, by contrast, was caused by the use of general obligation debt to cover operating expenses.) In 1976 the State Legislature passed a law banning further issues of moral obligation debt.

Lease-Purchase Debt

Despite the ban on moral obligation bonds, however, state officials have devised ways of using public authorities to go into debt without voter approval. One such method is the lease-purchase agreement.

Under lease-purchase agreements, authorities sell bonds secured by long-term leases with the state. The leases are struc-

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tured so that the annual rent paid to the authority exactly coincides with the amount of money needed to service the bonds. When the lease expires, ownership reverts to the state. Although called "leases," their impact on state finances is similar to that of direct state debt: They commit the Legislature to annual appropriations over the life of the bonds, or for as long as thirty years. The only difference is that the state's obligation in a lease-purchase agreement is to the authority itself rather than to the bondholders.

As with moral obligation bonds, lease-purchase deals offer politicians a way to bypass taxpayer opposition. For instance, after New Yorkers rejected a $500 million prison bond issue in a 1981 referendum, the Legislature authorized the Urban Development Corporation to float bonds and begin construction. Building prisons was probably not what UDC's founders had in mind when they established the corporation "to facilitate the development of affordable housing for low-income persons."

SUNY and CUNY buildings, hospitals and mental health facilities, and even the maintenance of state roads and prisons have been financed by such deals. Governor Cuomo's recently proposed infrastructure project would require state authorities to finance new tunnels, rail links, housing, and other public infrastructure with lease-purchase agreements.

Citizens groups have sued the state, arguing that this device deprives the public of its constitutional right to vote on the creation of state debt. The State Supreme Court has dismissed these suits, holding that taxpayers lack standing to contest the matter.

The Attica Shell Game

Lease-purchase agreements have been used not only to build unpopular projects, but also to provide infusions of cash into the state treasury. The politicization of state authorities reached a new peak in June 1990, when the Legislature instructed UDC to "buy" Attica prison from the state. The proceeds were to help close a $2 billion budget gap.

To raise the cash UDC sold $241.7 million worth of thirty-year bonds. The bonds were discounted by $10.7 million, so the authority sold them for $231 million. The state pocketed $200 million, the "purchase price" for Attica. A debt-service reserve fund and capitalized interest accounted for $29 million of total proceeds. Legal fees and administrative expenses came to roughly $500,000. The remaining $1.5 million went to the Wall Street bankers who set the deal up.

In effect, the state used UDC bonds to pay for current operating expenses. Over the next thirty years the Attica "sale" will cost state taxpayers $490 million in principal and interest payments.

Looting the Tollbooth

The Attica deal, at least, had a veneer of legitimacy. A capital item was involved, if only as a pretext for selling bonds. The same cannot be said of a scheme involving the New York State Thruway Authority.

In July 1991, Governor Cuomo and the Legislature ordered the Thruway Authority to sell $80 million worth of bonds to pay for its 1991 capital program. The authority didn't need the money: It already had that much in toll revenues sitting in its Dedicated Transportation Fund.

The idea was for the accumulated toll monies to be transferred to the state as an $80 million revenue "one-shot." The bonds, meanwhile, were to be paid off with future tolls.

On July 17, 1991, Comptroller Edward Regan announced he would sue to block the bond sale. He described the scheme as "the worst and most blatant in a long line of budget-balancing financing gimmicks" and one that "stretches the legal

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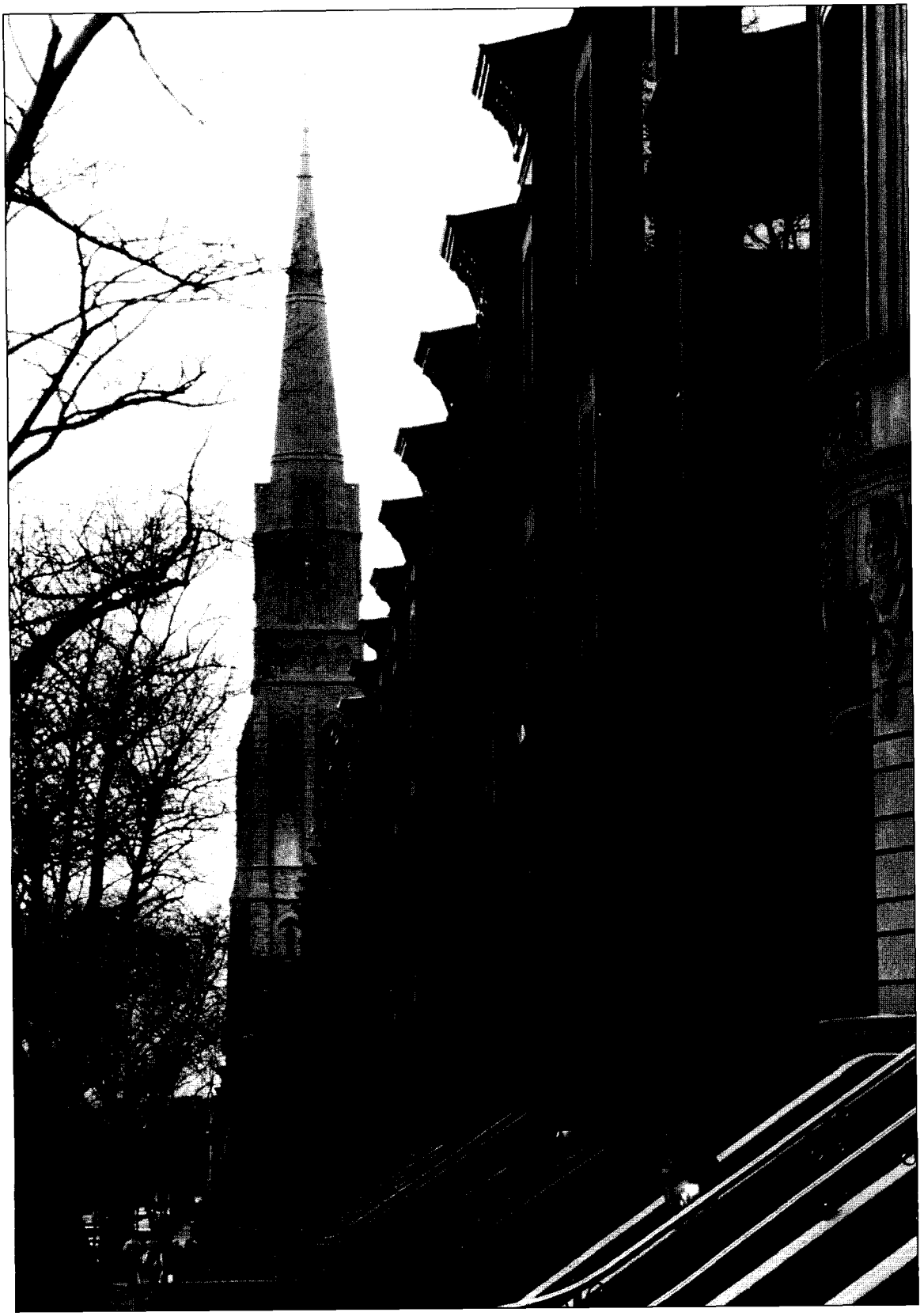

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underpinnings of these types of transactions to the limit."

"It now appears that the real reason for the authority's toll hikes was to provide additional state operating funds, making the action nothing more than a sophisticated, albeit presumably legal, money laundering scheme between the state and the authority," Regan said.

The Wall Street Connection

State politicians are not the only ones who benefit from these arrangements. Setting them up has become big business. In 1990 New York's public authorities sold $9.2 billion worth of bonds in eighty separate bond issues. To arrange the financing, the agencies paid more than $94 million to investment banks. On top of this an estimated $4 million to $5 million was paid to bond counsels for legal advice, and millions more to rating agencies, printing firms, and other services associated with bond sales.

Authority contracts have become thinly disguised awards for political contributions

In the Attica deal, for instance, the team of underwriters, lead by Bear Stearns & Co., netted $1.5 million in the "gross spread," the amount of proceeds from the bond sale the underwriters keep as compensation. Another $485,000 went to pay other expenses, most of which went to lawyers, financial consultants, and bond-rating agencies. There was no competition for this deal—the team had been underwriting UDC prison construction bonds for years.

This was nothing unusual. Decisions about how such contracts are awarded are shrouded in secrecy. Most state and local governments select their investment bankers on a strictly competitive basis: The one offering the lowest interest cost wins the bond contract. Not so for New York's authorities. The interest cost on most authority bonds is negotiated with a managing underwriter selected by the authority. The managing underwriter then sets the spread by consulting other bankers in the syndicate.

Negotiated financing is sometimes to the advantage of the authorities. Most authorities do not have the financial expertise needed to structure large, complicated revenue bond issues. The managing underwriter often serves as the authority's financial adviser, designing innovative indentures that make the financing possible. In negotiated sales, investment bankers can test the market before sale and cut the interest rate on those bonds that are expected to sell particularly well. The cozy relationship between authorities and investment bankers can at times help avert disaster. In late 1991, for example, the New York State Power Authority had the misfortune to schedule a bond sale at the very moment the Budget Bureau was announcing a massive increase in the state's deficit. The bond market panicked; interest rates rose. Within a few days, however, the Power Authority's investment bankers reassured potential investors that the authority's bonds were unaffected by the state's budget problem, since they were secured by the authority's own revenue stream. Interest rates on the $295 million bond issue then fell significantly.

Negotiated bond sales, however, are usually more expensive than those that are financed competitively: The average spread is higher. With these costs in mind, the Government Finance Officers Association urges that negotiated financing be used only for "large, irregular, and difficult-to-place issues."

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As one bond dealer, quoted by Joe Mysak and George Marlin in *The Guide to Municipal Bonds,* put it, "The more negotiated the business is, the more corrupt: it makes the greedy greedier. We know what happens when the Pentagon doesn't take bids; you wind up with $94 hammers."

Political Payoffs?

Why, then, are more than 90 percent of New York State authority bonds sold via negotiation? As with other aspects of public authorities, politics plays a major role. Banking firms make campaign contributions to key political figures and give dinners, tickets, junkets, and other perks to authority executives. These officials hand out business, including spots on negotiated syndicates, bond counsel contracts, and financial advisory work. This apparent quid pro quo couldn't take place if the underwriters were selected on the basis of competitive bidding.

Girard Miller, a top municipal bond dealer, has criticized the heavy reliance on negotiated financing for years. "Nothing has changed," he says. "There's still the potential for political abuse with negotiation. Competitive sales on plain vanilla deals are still the preferable way to go. On negotiated issues, you have to worry about the backslapping and arm-twisting that brought the deal in the door."

Negotiated financing also makes it easier for politicians to borrow money "off the books." Many budget "one-shots" are originally dreamt up by investment bankers, who are subsequently rewarded by being named managing underwriter in the bond sale.

Money is not the only thing politicians seek to influence via the selection of underwriters. A questionnaire sent by New York City to various investment banking firms in 1990 asked about the percentage of women and minorities on the board and in management, investment in South Africa, plans to relocate out of the city, charitable grants, and support of housing projects.

But in most instances, the business goes to firms that contribute heavily to the winning candidate. Says one New York banker: "It's gotten to the point where senior people are coughing up $15,000 and more, and spending half their time at fundraisers," as the price of doing business and winning good spots on underwriting syndicates. As long as there is no explicit deal between a candidate and a contributor, all this is perfectly legal. It does, however, raise serious conflict-of-interest questions involving top New York State officeholders.

Contractors and Unions

Authority projects also mean work for outside contractors and construction workers, as well as architects, engineers, consultants, and firms that supply the materials and services used by these groups. Questions again arise about how authority business is doled out.

A 1984 law requires all statewide authorities to adopt and publish "comprehensive" guidelines covering personnel service contracts, but gives them considerable discretion to specify "circumstances in which the board may by resolution waive competition." Some authorities have used this waiver to exclude entire categories of contracts from competition, including those the statute says must be included. The Battery Park City Authority requires a minimum of three bids only "where practicable"; the Job Development Authority requires its president to use his "best efforts" to solicit competing proposals; the Niagara Frontier Transportation Agency requires a minimum of three bidders, but only if "competitive . . . selection is considered to be in the best interests of the authority."

Although information about each contract must be filed with the Comptroller, his preapproval is not required (as it is with

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MORE TRICKS OF THE TRADE

The state's abuse of public authorities is paralleled by similar activities at the local level, and by state agencies' practice of establishing their own not-for-profit corporations.

The New York State Legislature has authorized literally hundreds of local housing, urban renewal, industrial development, sewer, and parking authorities. Industrial development agencies (IDAs), set up at the request of local governments since 1969, can issue bonds and grant breaks on sales, property, and mortgage taxes to businesses. The idea is to offer businesses an incentive to put facilities in a particular local area, thus presumably boosting both the state and local economy.

The power and size of IDAs went unchecked until 1986, when the Federal Government, worried about lost tax revenues, capped the amount of tax-free bonds IDAs are allowed to issue. The tax-free bonds issued in New York by IDAs plunged from about $2.5 billion in 1984 to about $890 million in 1990. But the IDA concept survived tax reform: taxable IDA bonds jumped from $430 million in 1987 to $1.5 billion two years later.

The actual effect of state-sponsored IDAs is often simply to move businesses around the state, rather than attract new ones. This is illustrated well by the Twin City International saga. In 1980, Twin City International, a maker of equipment to test metal coatings, moved to Amherst, a suburb of Buffalo, from the nearby city of North Tonawanda. The lure, a decade-long tax break, cost the city of Amherst thousands of dollars in lost taxes.

In 1991, with the tax break about to expire, Twin City moved its 55 employees back to North Tonawanda. This time the bait was a property tax break promised by the Niagara County Industrial Development Agency. The second tax break will cost Niagara County taxpayers $300,000 over the next decade. Apparently this was money wasted: Twin City President Serge Jaffe has said, "We would have made the move anyway. The cost of the land alone made the deal attractive."

From the state's point of view, both tax breaks were colossal wastes: New York's economy did not grow, it merely shifted. As State Comptroller Edward Regan points out, the process amounts to "private tax-cutting" with no social benefit, yet more than $500 million in IDA tax breaks were dispensed to businesses throughout New York State last year.

More troubling are the overt conflicts of interest that motivate much state and local development activity. For example:

- In the mid-Eighties, the mayor of Albany chaired the board of several local IDAs. His law firm represented applicants for tax-exempt bonds issued through the agencies; the mayor voted on the awards and shared in the firm's legal fees. The Albany County Parking Authority awarded a contract to manage parking facilities to a firm that was a client of the Mayor's law firm, despite the fact that another bidder had submitted a lower bid.
- Many of the senior managers and rank-and-file members of the Buffalo Municipal Housing Authority are members of the Mayor's political club. Although complaints have been made to the State Civil Service Commission and Senator Daniel Patrick Moynihan has held hearings documenting patronage abuses, no action has been taken.
- Buffalo's Urban Renewal Agency has placed federal funds in interest-free accounts at local banks, and has forgiven loan repayments without explanation. The city comptroller has not been allowed to audit the agency.

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- In Nassau County, the Hempstead IDA leased valuable county-owned property at Mitchell Field to a variety of developers at rents well below market rates, and issued $155 million worth of tax-exempt IDA bonds to help finance construction. The district attorney later found that the IDA board members who had made the awards had undisclosed interests in the properties being developed.

Eliminating IDAs and simply cutting taxes across the board would be a far more effective way of luring business to New York, and would result in none of the corruption that pervades IDAs.

State agencies can also create their own not-for-profit corporations. Once established, these corporations can do business, buy and sell property, charge fees for their services, and apply for federal and state grant monies for which their sponsors are not eligible—all beyond the legislative oversight and controls imposed on the agencies themselves.

"Of all the quasi-governmental organizations that have sprung up in recent years, these are the least subject to oversight and control," according to the New York State Commission on Government Integrity, which listed several cases of abuse:

- Health Research Inc., a corporation set up by the Department of Health, awarded a $65,000 contract to the University of California to establish a statewide cancer victim registry for New York. The project, it turned out, was suggested by Matilda Cuomo (the governor's wife) to the commissioner of health, and the funds were awarded to her brother Joseph Raffa, a California computer expert.
- Welfare Research Inc., established in the late Sixties by the Department of Social Services, was found by Comptroller Regan to have squandered more than $20 million on a program for the mentally ill. The institute's longtime director, Virginia Hayes Sibbison, received a higher travel allowance than the governor. When confronted with the Comptroller's audit, a lawyer for the institute complained, "What they did was try to evaluate us as if we were a state agency."

In the case of statewide public authorities, some steps have been taken to develop oversight mechanisms and to impose clearer standards of conduct. By contrast, local authorities and state-sponsored not-for-profit corporations are financial black holes. No one has examined the relationships between those who receive the jobs, contracts, and tax-free financing, and those who award those benefits. In its final report the Commission on Government Integrity acknowledged that "so far as Commission staff has been able to determine, no one has even an approximate count of how many of these organizations exist and where they are, much less an accounting of what they do. Increasingly, dealing with their intricacies to obtain the benefits they award has become, to quote one observer, 'an insider's game.'"

—*ESR*

state agencies), and there is no enforcement mechanism, other than sporadic audits by the Comptroller, to ensure compliance with the guidelines. The Commission on Governmental Integrity's 1990 report found that many authorities had not been audited since 1984, and that in general, audits were "not exercised often enough and comprehensively enough to ensure that the statute's intent is being carried out."

Not surprisingly, competition is not the norm. Authority contracts have become

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thinly disguised awards for political contributions. For example, 64 of the 68 engineering firms solicited by the Friends of Mario Cuomo fund-raising committee between 1982 and 1987 made contributions to the committee during that period. All but 11 of the 64 contributors secured consulting contracts with either the Thruway Authority or the New York State Department of Transportation between 1984 and 1987, according to the Commission on Government Integrity.

The report found "no evidence to suggest that Friends of Mario Cuomo fundraisers ever stated or implied that these firms' business fortunes in New York State would be affected by their contributions." Interviews with the contributing firms found that although no solicitors suggested a link between state business and contributions, virtually all the engineers thought it unwise "to take a chance and not contribute."

Still Out of Control

Some reforms have already been made in public authority financing. But they have not been adequate. The fiscal crisis of the Seventies, and especially the UDC default, made clear the dangers of unregulated debt issuance. That episode led to the banning of moral obligation debt, called a "dangerous and misleading illusion" by the commission impaneled to study the abuses of state credit. As illustrated above, the subsequent use of lease-back debt has effectively undermined the ban on moral obligation debt.

Another reform spurred by the commission's recommendation was the creation, in 1976, of the Public Authorities Control Board (PACB). The PACB reviews proposed financing or construction commitments for virtually all programs proposed by many of the state's authorities.

Unfortunately, PACB's oversight responsibility is limited to the financial viability of bond issues. It does a good job of protecting bondholders from possible default, but cannot shield taxpayers from the misuse of public funds. The board undertakes exhaustive reviews of each proposed project, vetoing those that do not appear to be self-supporting. But it cannot deal with such issues as political favoritism in awarding contracts. Further, the question of whether a proposed project is in the public interest, or whether it is better done by a normal government agency or by the private sector, is "left to the Legislature."

The PACB can also serve as a convenient scapegoat for state politicians seeking to avoid responsibility for unpopular policy decisions. For example, the board might determine that a transit fare hike is necessary to cover the debt service on Metropolitan Transportation Authority bonds. Legislators would then avoid taking the heat by blaming the PACB.

Legislation has been proposed repeatedly over the years to strengthen the PACB's oversight authority. Because it is a politically appointed body, however, its ability to control political abuse, even with such reforms, is limited.

One helpful reform would be to amend the state constitution to require voter approval of lease-purchase agreements and any other authority debt issues that are effectively guaranteed by the state. This would help bring irresponsible political use of authorities under control.

The ultimate solution, however, is to abolish those authorities that do not have a clear mission and a reliable source of revenue. This would stop the political abuse of public authorities and allow them to serve their original purpose: shielding the public interest from the vagaries of politics. ■

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The Bilingual Ghetto

Why New York's Schools Won't Teach Immigrants English

by Stephanie Gutmann

Twenty years ago, when Annie Martinez was a child of seven, her mother brought her to New York City. Annie, daughter of a laundry man who still lives in Cuba, had the classic immigrant child's experience of finding herself baffled by a bewildering clamor of alien sounds in the middle of a mostly indifferent American public school.

She had little choice but to sit quietly until the sounds began to make sense. This happened fairly speedily—as it often does for young children, given their sponge-like learning capacity.

"When I came I spoke not a word of English," she says, "but by the next year I was understanding a lot. Little kids can learn English very fast." Now 27, Martinez works as an administrative assistant at Columbia University's department of mechanical engineering and lives in Washington Heights with her husband, a maintenance man at Yeshiva University.

When Martinez's five-year-old son, Aneudy, was ready for kindergarten, she dutifully took him to the local public school. But what she heard as she passed each classroom door made her uneasy: In every class, the teacher was speaking Spanish. The Martinez family speaks English at home, and Annie wanted her son's education to continue in English because "he's here in the United States, and to get ahead in life he has to speak English."

Mother and son eventually found their way to the auditorium to register. Here a rushed school employee asked the boy to say a few words in English, as was routine with all new students bearing a Hispanic surname. On the basis of this "test," the woman told Martinez that her son would be assigned to a class in the school's bilingual program, in which instruction in conventional school topics—arithmetic and reading, for example—is carried on in Spanish. But Martinez dug in her heels. She had heard from relatives and people in her Washington Heights neighborhood about kids who were kept in bilingual classes—surrounded by Spanish-speaking peers, studying Spanish textbooks, listening to a Spanish-speaking teacher—and who at age 12, 15, or 16 still spoke English haltingly or not at all. Martinez marched out and telephoned a parochial school in the neighborhood. The next day, after receiving satisfactory assurances that instruction there would be given in English, she registered her son.

Martinez is one of a few immigrant parents who every year manage to wrest their children from the Board of Education's purportedly high-minded determination to preserve their native culture. The thrust of this effort is a program called "bilingual education," in which almost all instruction is in the parents' native language rather than English.

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There are some less amply financed alternatives for dealing with the assimilation problems of allegedly non-English-speaking students in the New York City school system. In an English as a Second Language (ESL) program, for example, students are instructed entirely in English, supplemented by a daily English-language lesson directed to the new English-speaker. For the past twenty years, however, most of the attention and three-fourths of the money have gone to bilingual education, in which the student spends almost the entire day working in Spanish or Russian or Haitian Creole.

The goal of the bilingual education program was once merely to get children into the English-speaking mainstream as quickly as possible, saving immigrant kids, who otherwise often dropped out of school due to problems in English comprehension. The assumption was that they would learn academic subject matter more quickly and better if it were taught in the language spoken in their homes, and that a tolerant society would accept without significant resistance their inability to converse in English, effectively if not legally the national tongue.

Over the past 25 years several discoveries challenged the assumptions underlying bilingual education. Evidence accumulated to show that children taught in their native language, segregated from the mainstream, don't learn English quickly and are grossly handicapped in a competitive society by the primitive level of their conversational capacity. They start out segregated and monolingual and remain segregated and monolingual. Since the vast majority stay in the United States where they have to understand, speak, and write English to earn decent livings, their educational experience is fundamentally unsatisfactory.

Yet at the same time as the drawbacks of bilingual education were becoming clear, the bureaucrats running bilingual programs got more money, became more entrenched, and thus found more ways to get more kids into bilingual education for a greater number of years. The position of these educators was reinforced by the intensification of ethnic politics that decried the prevalence of "Eurocentric teaching." Although Spanish is a European language, teaching it to children of Hispanic background began to seem like an appropriate defense against drowning their culture in a wave of Anglo dominance.

Over the years, English-only and bilingual teaching have been given distinct political meanings. In its latest "Regents Policy Paper and Proposed Action Plan for Bilingual Education," the New York State Department of Education proclaimed that "state and local curricula do not adequately reflect the linguistic and cultural background of language minority students, contributing to losses in native language proficiency, self-esteem, and cultural pride."

James J. Lyons, executive director of the National Association for Bilingual Education, a group that has helped to write much of the federal legislation shaping bilingual education, has been quoted as saying that the conflicts over bilingual education are about "whether a child has a right to have his native language developed—not just maintained, but developed."

Jim Cummins of the Ontario Institute for Studies in Education, author of many of the studies that bilingual education supporters cite, says in his book *Empowering Minority Students* that bilingual education is an "empowerment pedagogy" that offers an alternative to "white Anglo domination."

In other words, the goal of teaching immigrant children to function adequately in their new, presumably permanent environment is to be condemned as inadequate, even racist. Shielded by a moat of political correctitude, bilingual programs around the country have become the most entrenched, least flexible, and most imperial of education empires.

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The "language minority" or Limited English Proficient (LEP) child thus falls into a parallel education system, where there is even a separate but not equal way to test skills before graduation. A system of "alternative testing" allows a child to graduate from a New York City high school without knowing a word of English. The alternative testing program was set up, as a Board of Regents position paper put it, "to assure [LEP students] their equal access to State-endorsed diplomas."

It is generally assumed that the New York City Board of Education knows better than parents what the best educational policy is for their offspring. Thus the desire of parents for their children to become proficient in English can be dismissed by bureaucrats as products of "shame," "low self-esteem," or "lack of empowerment." Yet the stark fact remains that when Hispanic parents with children in public schools were asked in a recent Gallup poll in which language they prefer their children to be taught, only 3 percent favored mostly Spanish instruction. Thirty-eight percent wanted their children taught only in English, and 47 percent mostly in English, with some Spanish.

"English with some Spanish" happens to be an excellent description of the ESL method. Alternative methods like ESL, however, get only about 25 percent of federal funding for non-English-speaking students.

According to the central Board of Education, there were 121,777 children in bilingual programs in New York City in the 1990-91 school year. The vast majority (66 percent) are Hispanic, but there are also bilingual programs taught in Chinese,

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Haitian Creole, Russian, Korean, and 11 other languages. It is very difficult to get an exact price tag on bilingual ed, because the funds come from federal, state, and city sources and are spread diffusely. To give some idea of the cost, the state now spends about $30 million on bilingual education in New York City, the Federal Government spends about $11.7 million, and the city—about which it is extremely difficult to get current information—spent $90 million in the 1987-88 school year. The numbers for the city and state will probably rise because the State Board of Regents, the highest policy-setting agency in New York, has recently changed its definition of children who must be educated bilingually.

How is it determined which children will go into bilingual education? All children who seem likely to have a "home or ancestry where languages other than English are spoken" are supposed to be screened to determine whether they need to take the English Language Assessment Battery (LAB) test, an oral English reading exam. Of course, if we use this broad definition in the polyglot United States, schools would have to test nearly every child, as most children have at least an "ancestry" that speaks a language other than English. But in practice, according to parents, teachers, and administrators, Spanish-surnamed children are practically always tested, while other children—Asian, Haitian, Egyptian—are tested only erratically, at the convenience of the particular school administration. School districts are required to create a new bilingual program if there are at least twenty LEP children with the same language background at the same grade level assigned to the same building. Sometimes a school will want the funding a bilingual program will bring—and sometimes it is more convenient to look the other way when, say, a Cambodian child registers. Coming up with Cambodian instructors and Cambodian textbooks can be difficult—particularly if one is accommodating only twenty children.

Under the old law, children who were ranked in the bottom 23 percent of those taking the English Language Assessment Battery were assigned to bilingual education. As of January 1990, the standard was changed to put those in the bottom 40 percent into bilingual education. In her book *Out of the Barrio: Toward a New Politics of Hispanic Assimilation*, Linda Chavez calls this change in percentile "one of the most controversial elements of the New York plan." Barbara Blumenfeld, president of the New York chapter of LEAD (Learning English Advocates Drive), a national organization of educators who want to reform bilingual education, says: "Many children are not going to make 40 on that kind of a test, even if their first language is English. The passing grade to be promoted to the next grade level is usually lower than 40—it's 37 or 32. [Changing the percentile] just inflates the number of children who are in bilingual classes." Another troubling aspect of the LAB test: This oral reading exam is first given to children in kindergarten who haven't learned to read yet. Of course, most kindergartners are going to fail it, Spanish background or not. And because Spanish-surnamed children are automatically tested while others are not—or not consistently—the Board of Education will continue to track Hispanic

A Channel 9 special showed child after child who spoke no more than halting English after six years in bilingual ed

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children into bilingual ed. The Board of Education's own numbers tell the tale. There are 54,064 Hispanic children in bilingual education programs, as compared with 27 Italian and 587 Russian children. Do these numbers accurately reflect the presence of children of Italian or Russian background in New York? No, they are evidence, rather, that there are enough children in the schools whose native tongue is Spanish to support a weighty bureaucracy of advocates of Spanish-language bilingual education.

Parents do have the legal option of withdrawing their child from bilingual education, but the Board of Education seems to do everything it can to conceal this choice and to discourage parents from exercising it. Though Martinez was clearly furious at Aneudy's assignment to bilingual education, no one at the school told her that Aneudy could be placed in a mainstream public school class. Even if a parent somehow, by badgering or detective work, finds out that withdrawal is an option, the school system makes the option extremely difficult to exercise. Parents are required to come down to the school, during the working day, and talk to the school's principal or its bilingual coordinator. "We're talking about parents on entry-level jobs here," says Blumenfeld. "They don't get paid if they're at their children's school instead of their job."

If parents do meet with the bilingual coordinator, they're usually unprepared to go up against a professional who has a vested interest in maximizing the importance of bilingual education. The coordinator is trained as well as motivated to keep the child enrolled in the bilingual program. "Many of the parents are very shy; they regard the bilingual coordinator as 'la profesora' and they don't want to go against her. We have heard from parents that school system officials intimate they're not good parents if they try to take their children out," says Blumenfeld. The parent who opts to take a child out of bilingual education must renew that decision every year by notifying the Board of Education by mail.

The term "bilingual education program" is a bit confusing. Administrators trying to keep the children of reluctant parents in the program often use the argument that the child is getting "more service" for his education dollar. "They feel that they're going to get English and Spanish at the same time," Blumenfeld says, "and technically they do—they have one period of English a day." This is hardly more than an empty gesture in comparison with the time spent speaking Spanish or another language.

Some parents don't care; some don't know what's going on; some—although living in the United States—believe in the rightness of a system that treats both languages as equally effective in daily discourse. Once they find out more about the bilingual program, however, many parents try to pull their children out. Blumenfeld saw a big rise in the number of Dominican parents who tried to withdraw their children from bilingual education after a critical WWOR-TV Channel 9 special was aired. Daniel Abreu, a Washington Heights high school teacher featured on the program, produced child after child who spoke no more than halting English after five or six years in bilingual ed.

Washington Heights will continue to be a thorn in the Board of Education's side because of its huge Hispanic population. For example, *Newsday* columnist Jim Dwyer witnessed a showdown between parents from Washington Heights District 6 and officials from the Central Board of Education. Lenore Peay, director of a Washington Heights Head Start program, had been able to get the central headquarters officials to come uptown because she had so many parents who were upset at their children's assignment to bilingual edu-

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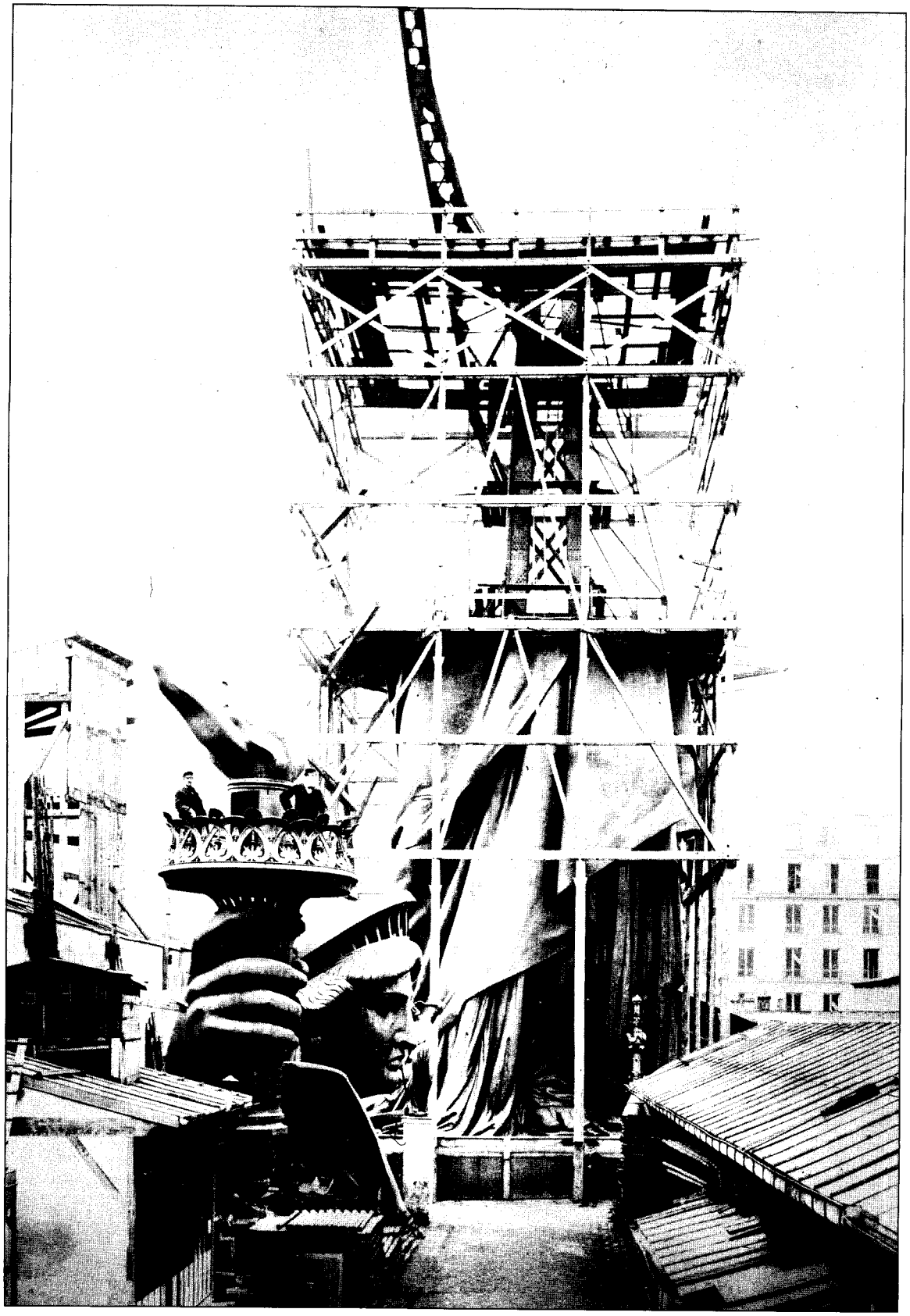

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cation. "I have to pay $25 an hour for a private tutor," proclaimed Gregoria Jimenez. After three years in a bilingual class, Dwyer reported, Jimenez's son was "zero-lingual"—he couldn't read in any language. Another man, Charles Pacheco, complained that his daughter had been placed in bilingual even though he and she spoke English. According to Dwyer, District 6 has a waiting list with six hundred to seven hundred names of parents who have requested their children's placement in an English-only school.

There are other brushfires that don't make the dailies because they're quickly extinguished by teachers who know how to manipulate the system's rules and regulations. One New York City high school teacher, who didn't want to be named, tells about the time the Board of Education discovered that there were twenty Haitian children at the same grade level in his high school. "The Board said, 'You have to start a program,'" the teacher recalls. He assembled the children, who had been doing fine in ESL, and told them, "I have wonderful news for you. Starting September first you won't be in ESL anymore. You're going to have all your classes in Creole."

"I knew what their reaction would be," the teacher continues. "The kids were furious. I said, 'If this is not what you want, then you have to get your parents to call the Board of Ed—and keep calling them.' They created a row sufficiently strong to force the whole thing to be canceled—but this is the kind of thing we have to go through periodically."

Equal Access?

The problem of bilingual education has developed over the past two decades. Bilingual programs in place in New York today, like others across the nation, evolved with the help of a landmark 1974 Supreme Court decision, *Lau* v. *Nichols*, which established the principle that the absence of special language instruction in public schools amounted to "discrimination" because only English-speaking students are taught in their native language. The decision established that non-English-speaking students have a right to "equal access" to education, but left it to individual communities to decide how to provide such access.

Bilingual advocates, however, embellished the principle of equal access with the notion that the teaching of English is a manifestation of imperialism, a blatant expression of the absolute primacy of the English language and European civilization above all others. This idea, while not expressed in official policy language, has shaped the interpretation of the *Lau* decision and the development of bilingual programs.

The process started even before the *Lau* decision. In 1972, for example, a policy paper published by the State Board of Regents noted that a 1970 New York City school census found that one of every seven children in the system could not speak English. It therefore proclaimed that "culturally and linguistically different people share the equal rights of freedom and opportunity fundamental to democracy. . . . A fundamental tenet of bilingual education is that a person living in a society whose language and culture differ from his own must be equipped to participate meaningfully in the mainstream of that society. It should not be necessary for him to sacrifice his rich native language and culture to achieve such participation."

But there were skeptics: Also in 1972, Albert Shanker, president of the United Federation of Teachers (UFT, New York City's teachers' union), had something to say about the Central Board of Education's new licensing system for bilingual teachers. "The board," Shanker said, "has adopted a very dangerous method: the creation of a separate series of jobs and licenses." He also warned that "Our devotion to bilingual education must not be merely emotional and

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sentimental. . . . Puerto Ricans particularly must be wary of using the bilingual program to compensate for the colonial status of the island and its people."

The tide, however, kept swelling. Later in 1972, a U.S. Civil Rights Commission report charged "oppression" of Mexican-American pupils in the Southwest—illustrated, no doubt, by low academic achievement and high dropout rates. The courts kept attributing low achievement to "linguistic discrimination"—that is, instruction in English. Once the absence of a bilingual program is assumed to demonstrate "lack of equal access to education," the courts have no alternative but to find schools that do not supply a bilingual program in violation of students' rights.

In July 1972, the Office of Civil Rights of what was then the U.S. Department of Health, Education, and Welfare launched a major investigation of New York City schools after Senator Jacob Javits charged that Puerto Rican students were denied "equal educational opportunities." Javits was quoted in the *New York Times* as saying that Puerto Rican children's difficulties with English "impede their ability to function in the normal classroom." Two months later, in an apparent reaction to the gathering storm, the city's Central Board of Education created a new Office of Bilingual Education and announced an expansion of the city's bilingual education program, although the board was vague about just what it would expand.

Still, the drumbeats in the background continued and were filtered through New York City's daily press. In July 1972, a feature article in the *New York Times* noted "a growing concern among educators—and growing militancy in the Puerto Rican community—over the quality of educational opportunity in New York's English-only schools." The article, characteristic of the assimilation-is-imperialism genre, was titled "Teaching Juan His Name Is John" and quoted Joseph Monserrat, president of the city's central board, as saying: "[A] kid grows up in a Spanish-speaking house. He eats rice and beans, he has a language and a certain way of being. This kid walks into a classroom when he's six, and what the school proceeds to do then is to knock his language out of him, in effect telling him that his whole world up till then is wrong."

In September 1973, the Federal Government, as if to demonstrate its serious commitment to bilingual education, withheld $965,000 from its usual aid to District 19 in Brooklyn because the district refused to set up separate math and reading tests for black and Puerto Rican children. "District 19," reported the *New York Times*, "refused to alter its policy of equal testing and equal scoring for all children, saying that the restandardization of testing methods as created by the federal Office of Education catered to the myth of racial inferiority in the learning process." The Office of Education retorted that the intent of the restandardization program was to "establish a less biased and more sensitive instrument."

Not surprisingly, Schools Chancellor Irving Anker requested a record budget for the 1974-75 school year, including $14.5 million "to meet the needs of students whose dominant language is not English."

In 1974, the Supreme Court handed down its decision in *Lau* v. *Nichols*, a case brought on behalf of a Chinese student in the San Francisco school system. In response to the decision, the Office of Civil Rights of the U.S. Department of Health, Education, and Welfare created what are known as the "Lau remedies," which, among other things, prohibited ESL instruction in elementary school. The Lau remedies also expanded the way entitlement to bilingual education was defined. Until then, children had been assigned to special classes only when their English skills were

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weak, but the Office of Civil Rights created the definition that New York still uses today: "School districts," according to Chavez, "were required to determine what language was most often used in the child's home, what language the child used most frequently, and what language the child learned first. Whether children from such homes understood English and could benefit from an English-language school curriculum was more or less irrelevant under the Lau remedies."

The same year, New York City entered into a legal settlement with Aspira of New York, Inc., and Aspira of America, Inc., two groups of Hispanic civil rights activists. They had filed a class-action suit on behalf of Spanish-speaking schoolchildren in the city. The consent decree, signed on August 29, 1974, required the city to improve its methods for "identifying" children who could benefit from learning their basic subjects in Spanish, and to install a full bilingual program in all schools where it was thought to be needed.

A 1978 study found that 85 percent of a sample student group were kept in bilingual classes although they had learned English

Just three months later, UFT president Albert Shanker made serious charges about the bilingual programs that were already under way: School systems were ignoring qualified teachers who knew or could learn Spanish, and were hiring unqualified Hispanic teachers just because they were Hispanic. He charged that non-Hispanic teachers had been fired for insufficient understanding of Hispanic culture, that successful ESL programs had been terminated, and that children were being forced into bilingual programs against their parents' wishes.

The next 15 years saw charges and countercharges, litigation (Aspira sued the city several times for not complying with the consent decree), and reams of policy papers, journal articles, and studies. Bilingual education grew, spawning what critics have called a "bilingual lobby" and a "bilingual support industry," typified by endeavors like the New York State Department of Education's Bilingual Education Technical Assistance Centers, "located in large cities throughout the state . . . to assist schools serving Limited English Proficient students."

But not all was supportive. In September 1978, for example, a U.S. Office of Education study found that 85 percent of a sample student group were kept in bilingual classes although they had learned English. Schools Chancellor Frank Macchiarola proposed that the school system hold bilingual students to the same standards as other students—an idea that went nowhere, probably because the bilingual establishment feared that the results would cast doubt on the success of bilingual teaching.

In 1989, the Board of Regents made an important announcement: "Present regulations require limited English proficient students to *leave bilingual education programs too soon*, before they are ready to function effectively in English-only classrooms [emphasis in original]." The remedy: the aforementioned raised LAB percentile, which would increase the number of children assigned to bilingual education by some 75 percent.

This is a terrible development. Even someone like Marie Thomas, principal of P.S. 132 in the Bronx, who thinks that "the bilingual concept is great," says that the new cutoff score just creates "more jobs and positions and testing and bureaucracy."

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Furthermore, she says, "We haven't been able to serve the students' needs when we used the 23rd percentile as a cut-off." How, she asks, can the system cope if nearly twice as many students are routed into bilingual education?

Another problem in New York's bilingual education program arises from the difficulty in finding qualified staff to teach the classes. There are not enough people who are proficient in two languages and want to teach in the city's public schools. "We're hiring," blares a huge yellow advertisement on a bus shelter at Amsterdam Avenue and 104th Street. "The New York City public schools need bilingual college graduates qualified as school psychologists, school social workers, teachers of special education, teachers of speech improvement, and guidance counselors. To learn more about these and other rewarding careers, call 1-800-TEACH-NY," the ad copy cajoles.

"They don't have the teachers to implement the bilingual program. . . . I now have four classes and I have four vacancies. This is October first and I'm still interviewing teachers," says Marie Thomas.

"There aren't enough regular teachers who are qualified. The Board of Education has sponsored recruiting trips to the Caribbean to bring them back," she continues. "They will help them get the courses, and make sure they get a place to live. But many don't survive because the change is too much—coming from their area into a metropolis like this. Many of them are not ready to teach, period, much less teach bilingual. If you had qualified people teaching the lower grades, the children would be mainstreamed sooner."

But the Board of Education keeps diverting children into the bilingual track. Without qualified teachers, the bilingual program has become a dumping ground in many schools, an inferior part of an already troubled school system. "Children are threatened that if they fail they'll be put in bilingual," says Daniel Abreu, the Washington Heights high school teacher, who is enthusiastic about bilingual education in principle.

Still, teachers struggle to comply with the Board of Ed's dual goal. One harried fifth-grade teacher says she is "trying to bring the children up to speed in Spanish, so they can move on to English." Meanwhile, she complains that her students speak a "very minimum" of English and are unable to do simple multiplication.

Supporters of bilingual education argue that these problems are well worth it because research shows that LEP children who have had bilingual education learn faster, score higher, and stay in school longer than English-deficient children who do not go through bilingual education. Their assertions are countered by opponents who attack the methodology of studies purportedly proving the superiority of bilingual ed results, point to conflict of interest, or produce studies that conclude the opposite. Bilingual education has been around for about twenty years now, and there has been ample time for both sides to commission studies, develop their own research, and court funding. To reach the truth by these means could take forever because more research is churned out all the time.

Lately supporters of bilingual education have been crowing about a major study commissioned during the Reagan administration and just recently released. This study followed two thousand Spanish-speaking students for four years, comparing how quickly three types of instruction—early-exit bilingual (similar to ESL), late-exit (traditional) bilingual, and immersion strategy (all-English instruction)—"mainstreamed" their students.

The study found that the children in late-exit programs learned English, reading, and math skills at least as quickly as English-speaking students, while children in early-exit and immersion fell behind. The

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researchers cautioned, however, that the programs they studied represented the "optimal implementation" of the bilingual instruction strategy. New York's bilingual programs are hardly optimal, and the study made no effort to evaluate the actual programs in place in New York and elsewhere. (Only one of the nine schools studied was in New York City.)

The children studied were also unrepresentative: The researchers noted that the late-exit children had more-involved parents than the other children in the study. Which variable was responsible for the successful outcome? To really test the effectiveness of late-exit, the researchers would have had to adjust for differences in parental involvement.

The study also confirms what many critics have charged: that children are often kept in bilingual programs long after they have learned English. "After four years in their respective instructional programs, three-fourths of the immersion-strategy and over four-fifths of the early-exit students who had entered their programs in kindergarten are not mainstreamed. That is, students tend to be kept within the instructional program, even those who have been reclassified as fluent English-proficient."

The ESL Solution

If we got rid of bilingual education, we wouldn't have to return to the old, heartless days of English immersion. We could still give English-deficient students special consideration, but with more ESL teaching. It would offer the best of both worlds: The child works and struggles in the mainstream—into which he must eventually move anyway—but he is not just dumped in.

Any good teacher should be able to teach recent immigrants in English and spend an extra 45 minutes a day teaching an English-language class. Of course, the Board of Education has made ESL-teacher qualification as complicated as almost everything else it touches: Would-be ESL teachers must acquire a battery of special education-school credits. Practically speaking, though, why shouldn't any teacher deemed qualified to teach be able to teach ESL?

There's only one problem with moving in the ESL direction: It requires that school commissioners and chancellors and legislators make a 180-degree turn in their thinking about assimilation. Implementing ESL instruction requires abandoning the idea that assimilation is oppression—a kind of violence that wipes out a child's native culture and imposes something monolithic called "European values and culture."

It requires that the school system again embrace the old-fashioned notion that new immigrants can maintain their native culture without the help of the government. It means accepting the idea that immigrants can contribute elements of their native culture to the melting pot of the United States without a government program telling them how to do it. The government, after all, didn't sponsor rock-and-roll, or jazz, or the different schools of modern dance, or the Thai, Mexican, and Chinese restaurants that line the streets of New York.

The good news is that if one goes down into the trenches, where the Board of Education's tentacles don't always reach, one finds plenty of children and teachers who somehow haven't grasped this education-school notion that assimilation is violence. Children from all around the world just keep piling into our schools, eager to mix it up, seemingly confident in their ability to give and take without losing themselves.

Says one city teacher, "I often ask the class, 'Why did your family come to America?' Universally the response will be: 'We came here to get ahead.' Of course there are some who will say for political reasons, but the overriding reason they give is economic opportunity. None of them say, 'I came here to improve my Spanish.'" ■

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The Assault on Public Order

How the Civil Liberties Union Goes Astray

by William A. Donohue and James Taranto

Norman Siegel has fond memories of his youth in Brooklyn—and of his earliest clashes with authority. "There's a kind of zaniness and spirit that I got by growing up in Brooklyn, standing on the street corner and singing Doo Wop," he says. "That was my first experience with police misconduct. They always told us to get off the street corner because it was 11 o'clock at night. They'd say people were making complaints, but we'd ask the people in the neighborhood if they made complaints. There weren't complaints. [The cops] just didn't like our rock music; they didn't like us hanging out on the street corner. . . . But we had nowhere else to go."

Siegel may not have been able to find out who was complaining about him three decades ago, but today it is easy: As the leading opponent of the city's efforts to combat public disorder, the 47-year-old executive director of the New York Civil Liberties Union (NYCLU), the state's ACLU chapter, has become one of the most controversial men in New York, antagonizing politicians, community leaders, police, and even some of the ACLU's traditional supporters.

Siegel's strident activism, combined with the ever-present threat of legal action, has made the NYCLU a powerful obstacle to city officials' efforts to keep public spaces clean and safe. The organization's involvement in the well-publicized, three-year-long clash over Tompkins Square Park illustrates the NYCLU's effectiveness and persistence. During the Eighties, the Lower East Side park became a gathering place for a motley crew of anarchists, skinheads, squatters, and other belligerents, as well as a camp for homeless people. On the hot Saturday night of August 6, 1988, a "squatters' concert" was held at the park, featuring local rock bands such as Public Nuisance and Letch Patrol. Things got out of hand, and a riot erupted between protesters and police who had been called in to keep the peace. Fifty people were injured, 31 were arrested, and 121 filed complaints of police brutality.

The following Monday, some four hundred Lower East Side residents met at St. Brigid's Church on Avenue B and East Seventh Street. Siegel was there, bringing tempers to a boil by denouncing the "police riot" and urging his audience to find out "who gave the order to send the cops into the crowd to beat" the demonstrators.

Siegel called for a march on the Ninth Precinct, which went off two days later and, according to *Newsday*, drew about four hundred "yippies, hippies, punk rockers, anarchists, communists, a few homeless people, and members of the sizable squatters movement." Siegel led the marchers in the chant "Free the Park," although some improvised their own slogan: "Kill Cops!"

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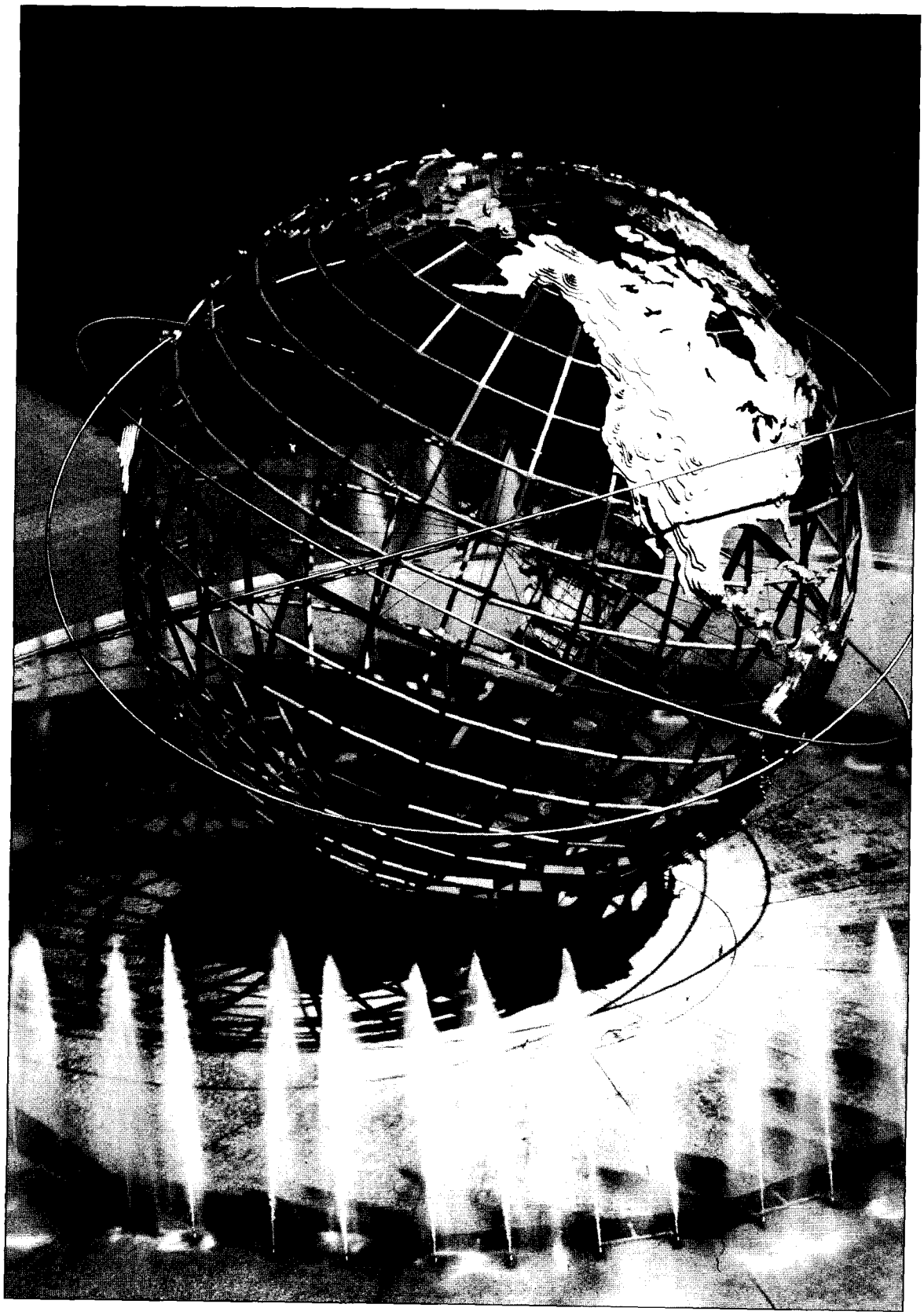

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The police, subject to such unrelenting criticism, were unable to quell the disorder and sporadic violence that plagued the park during the next three years. Finally in June 1991 the Dinkins administration closed the park for a renovation that had been planned for some time. Siegel was outraged. "The closing of the park represents the visible failure of the Dinkins administration to address serious urban problems," he said. In an interview, he elaborated, saying that he believed the park could have been cleared by improving social services for the homeless: "People would leave voluntarily if [the city provided] even one floor of a shelter, and let the homeless people, in association with the Human Resources Administration, manage it."

The battle to close the park left Robert Rohn, a Lower East Side community leader, furious with Siegel. "We can't make a move down here on the Lower East Side without first clearing it with him," Rohn said. "He's not an elected official, yet he has managed to thwart the city's plans with his ridiculous lawsuits on behalf of the city's lowlifes."

Although the NYCLU never actually went to court over Tompkins Square Park, Siegel's position on the matter reflects a familiar pattern. What most people regard as social disorder, civil libertarians frequently construe as expressions of individual freedom; society, in their view, may enforce standards of public behavior only extremely sparingly and with layer upon layer of safeguards against potential abuse.

But even as the NYCLU defends those who defy social norms of behavior, it also demands that the government provide its clients with generous social services. The NYCLU (along with the Southern California ACLU chapter) has been at the forefront of a nationwide effort within the ACLU calling for recognition of "economic rights"—that is, individual rights to government-provided services, such as medical care and shelter. The NYCLU, for example, asserts that there is a fundamental "right to housing," a position not endorsed by the national ACLU. Thus, according to the NYCLU, local governments are obligated to provide facilities to house the homeless. But the NYCLU also fights for the right of the homeless not to use these facilities, and to occupy and disrupt important public spaces instead.

This conception of "individual rights" places a double burden on society. Taxpayers are forced to pick up the tab for expanded social services, but cannot require the recipients of these services to behave in a responsible and orderly fashion. The NYCLU demands that society not only tolerate but subsidize antisocial behavior.

It is an approach used by other advocacy groups as well. In 1979, for example, the Coalition for the Homeless won a legal settlement recognizing an unconditional "right to shelter" for New York City's homeless. Such a policy would be socially beneficial if this "right" also entailed an obligation to use the shelter provided, so that citizens could enjoy safe and orderly use of public places instead of finding them strewn with human bodies and wastes. Yet the coalition, like the NYCLU, strenuously opposes efforts to clear the homeless from parks, subways, bus stations, and other public facilities. Some advocates even object to screening applicants for shelter services to ensure that scarce resources are spent only on the truly needy. When Westchester County began doing so in 1989, Siegel demurred, asserting: "The homeless are a fragile and loner constituency that very often likes to be left alone. They value their anonymity and freedom and do not want to be assessed, surveyed, and studied."

With its rich liberal tradition, New York City is unusually hospitable to civil libertarian ideas. The fact that Michael Dukakis carried an ACLU card did not

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prevent him from carrying two-thirds of the vote in the five boroughs. But with the bonds of civility in New York frayed by crime, drugs, homelessness, and disorder, and with a stagnant economy and budget crisis making it more difficult to fund social services, there are signs of a backlash against the ACLU and "its libertarian vision of license for all, regardless of the consequences," in the words of Fred Siegel, a professor of history at Cooper Union (who is not related to Norman Siegel). Fred Siegel, who admires Norman Siegel's "New York grit and energy," nonetheless argues that the ACLU "has both reduced the liberties of the law-abiding and undercut faith in the civic institutions, such as the courts, that the ACLU wants to rely on to preserve civil liberties."

The NYCLU sent out volunteers untrained in psychiatry to inform the homeless of their right to stay put

The issue that most galvanized New Yorkers against the ACLU was what has come to be known as the Billie Boggs case, in which the NYCLU represented a mentally disturbed homeless woman seeking to avoid commitment to Bellevue. "When the Billie Boggs case was going on, it was the prime topic of conversation for parents at my son's Little League games," says Fred Siegel. "I heard comments like, 'This time they've gone off the deep end.' These were Little League games in Park Slope," a particularly liberal neighborhood in Brooklyn.

The *Boggs* case grew out of the Koch administration's efforts to get homeless people off the streets during the winter. In late 1985, Mayor Koch inaugurated the Homeless Emergency Liaison Project, known as Project HELP. He issued an order authorizing the police to remove the homeless from the streets whenever the temperature fell below freezing. He also relaxed standards for committing the mentally ill homeless to institutions: Previously, only those who posed an immediate danger to themselves or others could be hospitalized; the Koch policy allowed commitment of those who posed such a danger in the foreseeable future. Teams of psychiatrists, nurses, and social workers were sent into the streets to treat the homeless and identify those in need of hospitalization.

The NYCLU's response was vitriolic. Norman Siegel and staff attorney Robert Levy accused Koch of violating "the rights of countless homeless people who have competently refused to go to a shelter." The NYCLU fought back, instituting its own "freeze patrol," which sent out volunteers untrained in psychiatry to inform the homeless of their right to stay put, as well as their right to shelter.

In December 1986, Project HELP's professionals began receiving reports about Joyce Brown. The forty-year-old Brown, who used the pseudonym Billie Boggs (after radio talk-show host Bill Boggs), had made her home on a Second Avenue sidewalk between 65th and 66th streets in Manhattan. For a period of months, she was observed destroying money and urinating and defecating on the street. Brown, who is black, also shouted racial epithets at black male passers-by and refused all services offered by Project HELP.

Brown was not always down-and-out. Raised in a middle-class home in New Jersey, she had worked as a secretary for more than a decade. But in 1985 her sister had her committed to East Orange General

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Hospital, where she was restrained and medicated with Thorazine, an antipsychotic drug. Two weeks later she was released, certified as "not dangerous" and "not psychotic."

She soon migrated to New York, where on October 28, 1987, Project HELP staff picked her up and had her admitted to the psychiatric ward at Bellevue. She was examined by five psychiatrists, who diagnosed her as a paranoid schizophrenic. Among other things, they said she was suicidal because she had run into oncoming traffic, and dangerous to herself because her hostility and obscene language might provoke others to cause her harm. They said she was delusional because she responded to questions about her use of the street as a toilet by telling an irrelevant story about events in Connecticut, and because she had torn or burned money she was given by passers-by. She explained that she believed the passers-by were black males (some were not) who wanted to buy sex.

The chief problem with the radical civil-libertarian approach is its failure to deal with the social costs that result from extreme interpretations of individual rights

After arriving at Bellevue, Brown contacted the NYCLU. Robert Levy, who became her lawyer, disagreed sharply with the Bellevue diagnosis. "I didn't think I'd spoken to a mental patient," he said after their first meeting. "She sounded more like a board member of the civil liberties union." Levy agreed to go to court to challenge Brown's detention.

The NYCLU enlisted its own team of psychiatrists, headed by Dr. Robert Gould, professor of psychiatry at New York Medical College. Dr. Gould found Brown's judgment and insight "slightly impaired," but said she was generally coherent and logical, not delusional or psychotic. He rebutted each of the diagnoses of the hospital psychiatrists. Burning money, Dr. Gould said, was not an irrational reaction if Brown felt insulted by the manner in which it was offered. Moreover, he quipped, "I put a lot of money in the stock market, and I hope Ms. Boggs doesn't think I was crazy for getting a burn there." Brown herself denied having run into traffic, and besides, Dr. Gould pointed out, jaywalking is common in New York. As for her toilet habits, the doctor noted that she was not allowed to use the restroom of the neighborhood restaurant, and thus had no alternative but to use the street. "It's not nice, but it's not delusional," he said.

In short, the NYCLU presented Brown's behavior as an alternative lifestyle. As Gould and Levy wrote in a *New York Times* op-ed essay, "It is quite possible to mistake homeless, unconventional, or unaesthetic behavior for serious pathology."

Presented with the testimony of experts utterly at odds with each other, Judge Robert Lippmann threw up his hands and declared that the psychiatric evidence was inconclusive. He refused to hear testimony from Brown's sister about her history of mental illness, relying instead on the testimony of Brown herself, whom he found to be "rational, logical, [and] coherent." Ironically, her credible performance on the witness stand may have been the result of two weeks of hospitalization, which had freed her from the stresses of life on the street. Dr. Albert Sabatini, then medical director of Bellevue's Department of

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Psychiatry, testified that it is common for schizophrenic patients to "stabilize" after undergoing treatment.

Judge Lippmann's ruling was appealed by the city and reversed by an Appellate Division panel. The NYCLU then appealed to the Court of Appeals, New York's highest court. Meanwhile, however, Bellevue psychiatrists determined that Brown, who remained hospitalized, needed immediate medication. The city petitioned another trial judge for permission to medicate her. A court-appointed psychiatrist agreed that Brown was ill and could be helped by medication, but said that because she had displayed hostility toward the Bellevue doctors, it would be counterproductive for them to medicate her against her will. The judge accepted the recommendation and denied the city's request. At that point the city gave up and released Brown. The Court of Appeals then dismissed the NYCLU's appeal, holding that the issue was moot since Brown was no longer in the hospital.

Legally, then, the case ended inconclusively. The highest court to rule on the matter upheld the city's standard for institutionalization, and Project HELP continues today. Brown, meanwhile, worked briefly as a receptionist for the NYCLU but left, Siegel says, because she was unable to cope with the job. According to Siegel, Brown now lives in a residence for homeless women and has asked the NYCLU to protect her privacy and not reveal her specific whereabouts. The press sporadically reports sightings of Brown on the street, sometimes making obscene gestures at passers-by.

City officials view the result as a tragedy for Brown. The fact that Brown led a fairly normal life in the past, says Dr. Sabatini, suggests there is a strong possibility she could be treated successfully with psychotropic drugs. Yet the NYCLU regards her personal autonomy—including her prerogative to live on the street—as sacrosanct, outweighing both the social costs of that decision and the cost to Brown herself.

Indeed, the chief problem with this radical civil-libertarian approach to public policy is its failure to deal with the social costs that inevitably result from extreme interpretations of individual rights. "In *Boggs*, one could not argue the case by saying Billie Boggs was offensive," says Paul Rephen of the New York City Law Department, who was part of the legal team that prepared the city's case. "Individuals have a constitutional right to be offensive. So you can't go into court saying that part of the problem when we have homeless like this is that it affects the quality of life in New York City. . . . That is not an issue that the city can argue."

The legal system, which exists to resolve individual claims, is not well-suited for weighing social costs and benefits. There is no public-interest law group that truly represents the public interest in a case like *Boggs*; even if there were, "society" would not have legal standing in the case. Because judges often end up serving as the final arbiters on important social issues, a court system receptive to reckless claims of individual freedom can do great social damage by unsettling the delicate balance between the rights of the individual and the needs of society.

The ACLU, both in New York and elsewhere, often seems unconcerned with striking such a balance, instead viewing individual freedom as a trump card that supersedes all concerns of social responsibility. For example:

• Although the ACLU does not believe the Second Amendment guarantees individuals the right to bear arms, Siegel objected to a proposal to evict public-housing tenants who *illegally* possess firearms. "What they would have to show, in our opinion, would be activity that interferes with other tenants and their rights," Siegel said. During the first half of 1991, 470 people were wounded

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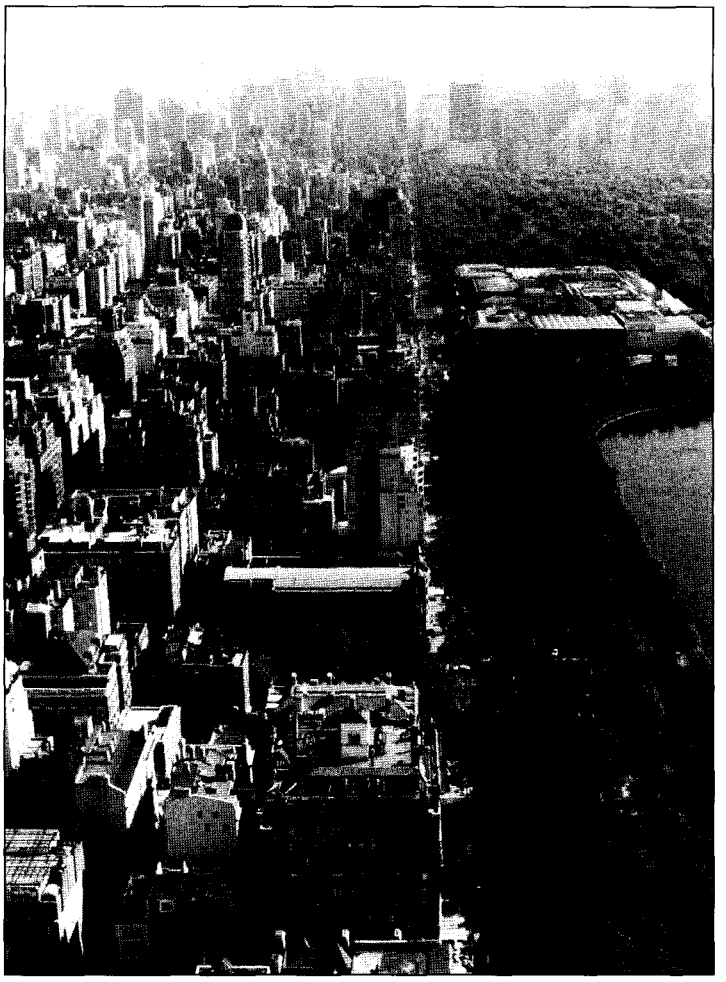

and 72 killed by illegal guns in New York's housing projects.

• In 1989, the Metropolitan Transit Authority approved regulations designed to curb disorder at Grand Central Station. The rules barred smoking, spitting, or littering; washing oneself at a drinking fountain; washing clothing or other personal belongings in a restroom; changing clothes or remaining undressed; lying on floors, platforms, stairs, or landings; occupying more than one seat; and creating unreasonable noise. Siegel labeled the rules "mean-spirited" and possibly "discriminatory against the homeless."

• The ACLU filed an amicus brief on behalf of Richard Kreimer, a 41-year-old, able-bodied homeless man who spent his days in the Morristown, New Jersey, library. The library had received complaints from patrons offended by Kreimer's foul stench and his habit of staring at young women. It instituted a set of rules barring patrons who are not reading, studying, or using library materials; who harass or annoy others through noisy activities or by staring; or whose "bodily hygiene is so offensive" as to constitute a nuisance. Federal District Judge H. Lee Sarokin, overturning the library's rules, declared, "If we wish to shield our eyes and noses from the homeless, we should revoke their condition, not their library cards."

• In 1988, Alexandria, Virginia, passed an antiloitering ordinance designed to combat drug dealers. Mindful of the potential for abuses in such a law, local officials drew the ordinance very narrowly, making it quite difficult to break: In order to be in violation, one would have to stand on a corner for more than 15 minutes *and* meet with more than two people in succession for less than two minutes each *and* exchange small parcels of money *and* attempt to hide such transactions from public view *and* have no other explanation for these actions. The ACLU successfully sued to have the law overturned, claiming that it could lead to the arrest of lawyers handing out business cards.

• When Atlanta officials attempted to crack down on loitering, Laughlin McDonald, director of the ACLU's Southern Regional Office, declared that "wanderers and loafers" have "an honored place in our culture." "Loafing and loitering, like privacy and many other rights we take for granted, are not specifically mentioned

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in the Constitution, but they are protected by it. They give value and meaning to life and nurture our sense of independence, self-confidence, and creativity."

When citizens complain about the disorder that results from extreme positions such as these, the ACLU's typical response is to blame a lack of social services rather than a lack of social controls. Thus Siegel blames Joyce Brown's saga on the city's inadequate programs for the homeless, a position Judge Lippmann echoed in his ruling:

> Housing in New York is an expensive commodity, so expensive that in this rich city many can no longer afford it and are driven to live on the street. Who among us is not familiar with the tattered, filthy, malodorous presence of the wretched homeless? The tired, poor, huddled masses need no longer be invited to our shores. Our society has created them at home. The blame and shame must attach to us, not them.

This conclusion, of course, evades a central issue in the case: that Brown fought hard not to accept the services the city offered her. This can hardly be characterized as a failing of society.

The NYCLU is selective in its indictments of society: The plight of the poor is always blamed on insufficient government services. Many respected economists, however, argue that New York's housing shortage is caused by overregulation—that high property taxes and strict rent controls make it unprofitable to provide low-income housing. Siegel finds the argument irrelevant: "That's a social issue, not a civil liberties issue."

Yet where the NYCLU draws the boundary between social issues and civil liberties issues is not always clear. Consider *Lizotte* v. *Health and Hospitals Corporation*, a class-action lawsuit that was filed in 1985 by the NYCLU and remains unresolved. In part the suit is clearly a civil liberties case: It challenges the use of allegedly excessive methods to restrain mental patients in city hospitals and demands that adequate medical services be offered to patients who are committed or detained in hospital waiting rooms.

But in pursuing the case, the NCYLU is also acting as an advocate for expanded mental health services. City officials readily concede that overcrowding has been a problem in the city's mental hospitals and that the NYCLU's demands are a defensible policy position. To satisfy the NYCLU, however, the city would have to enter into a legally binding agreement committing itself to certain levels of service. "While it may seem reasonable," says Leonard Koerner, the city's chief assistant corporation counsel, "to the extent that you have to allocate additional resources in order to satisfy those demands, it means allocating less resources to other areas."

Koerner likens the NYCLU and other advocacy groups to labor unions. "Their job is to demand as much as they can get, and there are judges here who will accommodate them." The influence of these organizations on the city's political culture is pervasive: Even when advocacy groups do not involve themselves directly in an issue, city officials must anticipate and avoid policy decisions that might give rise to costly lawsuits.

Caught in the middle, of course, is the city's middle class, which must bear the burden of both expensive court-mandated social services and growing public disorder. The result, in the words of Charles Morris, the city's former director of welfare and Medicaid: "New York City's current social policy is based on the presumption that you can do whatever you please, and it is the city's job to pick up after you." This is no way to run a city that faces problems far more menacing than teenagers playing music on the street corner. ■

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Subsidizing Discrimination at Starrett City

by Howard Husock

It may seem self-evident that government-subsidized housing advances the interests of blacks. The argument is simple: Because lower-income blacks can only afford inferior housing, government subsidies are needed to put better housing within their reach. Yet housing subsidies may do more harm to minorities than good. In some cases, they have actually strengthened the incentive to discriminate on the basis of race.

This is the conclusion to be drawn from what was probably the most celebrated New York housing discrimination controversy of the Eighties: the Starrett City racial quota system. Built in Brooklyn's East New York section in the mid-1970s, Starrett City is one of the largest housing complexes in New York. A 46-building, 5,470-unit state and federally subsidized complex, it houses 23,000 people. Between 1975 and 1988, when they were struck down by the courts, quotas kept 65 percent of Starrett City's occupants white. The management kept separate waiting lists for whites and blacks and let apartments sit empty, keeping prospective black tenants waiting, while it looked for white families willing to move into the integrated project.

Because it was a quota system that appeared to discriminate *against* blacks, the Starrett policy made strange bedfellows. The Reagan Administration Justice Department made common cause with the NAACP in challenging the Starrett policy as discriminatory. Advocates of Starrett's quotas, including housing design reformer Oscar Newman, defended them as necessary to forestall white flight. Opponents of the quotas, like the planner Paul Davidoff, viewed the Starrett policy as overt discrimination, asserting that it was unconscionable for a state-supported project to adopt such a policy in a metropolitan area where many communities were not yet integrated.

Both views are easy to agree with and impossible to reconcile. Entirely missing from the debate, however, has been an understanding of the role that government housing subsidies played in creating an incentive to discriminate. Starrett received a variety of government funds: Mortgage interest rates were subsidized by both the Federal Government and the state, and individual tenants received more than $21 million in federal rent subsidies. The unanticipated consequences of such subsidies are central to understanding the dynamics of race in the Starrett City case, and in the housing market in general.

How can housing subsidies abet racial discrimination? By preventing landlords from using other, more defensible criteria in selecting tenants. Owners of rental property generally select their tenants by estimating the effect of their presence on the long-term

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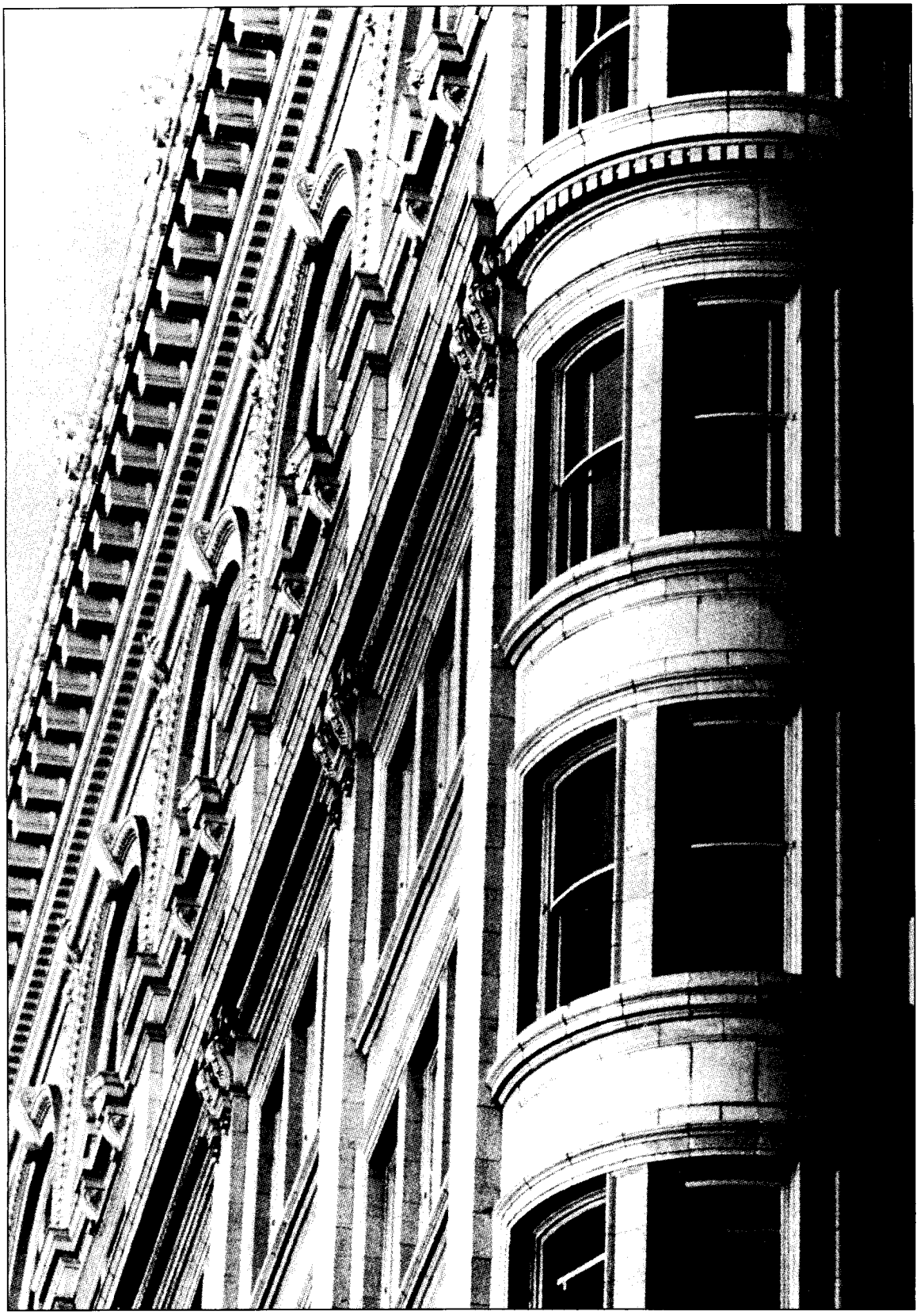

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value of the property. Will they pay rent regularly? Will they treat the property with respect? Will their presence encourage other tenants and prospective tenants to regard the property as a desirable place to live? In answering these questions in any given case, property owners make judgments that reflect their own attitudes toward such characteristics as income and, unfortunately, race. The owners of highly subsidized properties like Starrett City find themselves impelled by government regulation to select subsidized tenants without regard to their earned income. Because landlords are unable to use income as a predictor of behavior, they fall back on a racial quota system to limit the number of what they think may be problem tenants. That, at least in my view, appears to have been true in the complex saga of Starrett City.

Starrett City was conceived in 1964 by the United Housing Foundation, an organization formed by a consortium of unions eager to build new, inexpensive housing for their members. Modeled after Co-op City in the Bronx and designed by the same architect, it was intended to be unadorned housing owned as a cooperative. The union group turned to bond-supported state financing available for middle-income housing under the terms of the 1955 New York Private Housing Finance Law, known as the Mitchell-Lama law. It is important to note that because Mitchell-Lama subsidies were less generous than the subsidies available to publicly owned housing, Mitchell-Lama projects tended to be placed either on land whose cost to the developer was reduced by urban renewal subsidies or in declining urban areas being deserted by the middle class. Starrett City fell into the latter category.

In 1971, after some $300 million in bonds had been floated and ground had been broken for the project's power plant, United Housing became concerned about the total cost of the massive project, its mortgage subsidy notwithstanding. The union feared that rising costs would force it to raise its prospective rents from $25 to $45 per room per month, putting them beyond the means of those for whom they were intended.

In other words, in taking its reading of the housing market, the union was skeptical of the demand for Starrett City. This skepticism did not deter the state, however. When the union group walked away, the State Division of Housing was determined to continue the project despite the warning signal that it might be too costly for its potential market. The Division of Housing turned to a private real estate firm, the Starrett Housing Corporation, to take over. Starrett insisted on operating the project as rental, not cooperative, housing, and immediately found itself in hot water with the white middle-class neighborhoods on Brooklyn's south shore, particularly Spring Creek and Canarsie.

When Starrett went to the Board of Estimate to obtain a property tax abatement that was vital to its financing, it met with organized opposition from churches, synagogues, and parent-teacher associations. Now that the giant project was no longer reserved for union members, its future neighbors feared that racial change would lead to crime and lower property values. Among those testifying at the Board's public hearing was Daniel Shapiro, president of Congregation B'nai Israel in Spring Creek. "We are hearing a lot of what this will do for families coming into the community [by] *giving* them houses," Shapiro said. "Let us talk about what is going to happen and why we need to protect the families now living in Spring Creek. We don't have to tell anybody here what the word East New York means—ghetto, poverty. . . . I implore every one of you at this session [to] protect this area . . . as an integrated community, and not have it turned totally ghetto."

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Opponents within the community proved willing to support Starrett on the condition that it promise to maintain a ratio among its tenants of 70 percent white to 30 percent black, a provision to which Starrett informally agreed. Thus, right from the start the issues of subsidies and race were intertwined. Because Starrett was perceived to be making it possible, through state subsidy, for newcomers to enter the community at prices lower than homebuyers would pay, the neighborhood wanted assurance that the newcomers would meet middle-class community standards. Lacking a means of screening new residents on the basis of their ability to pay (or, as implied by the original plan, on the basis of union membership), their prospective neighbors asked instead that the newcomers be screened on the basis of race.

Subsidies permitted Starrett to be built without regard to market demand

Starrett was intended as a middle-income development. Why was that not enough to calm the fears of Spring Creek and Canarsie? Perhaps because they were racists who feared having even middle-class blacks in their part of Brooklyn. But at a time when the state's Urban Development Corporation was announcing ambitious plans for subsidized housing outside ghetto areas, perhaps they were concerned that even if Starrett was intended as a middle-income project, there was no guarantee it would remain one. And indeed it did not, much to the professed surprise of Starrett management. When Starrett began, in late 1973, to rent its first units, its management had no plans to select tenants on racial grounds. Instead, management set out to fill the project with middle-income tenants for whom it was conceived, convinced, as general manager Robert Rosenberg has recalled, that in the process it would realize the racial mix it had promised. Toward that end, it established a minimum-income policy for tenants.

Once it began to take rental applications, however, Starrett City found that it could not come close to attracting a sufficient number of middle-income applicants to fill its units. Most of those who came to the office at the massive construction site were poor and black. Even after advertising the project extensively in middle-income areas and adding amenities such as built-in dishwashers and a community center with a swimming pool, Starrett could not attract the thousands of middle-income tenants it was built to serve. It was only at this point that Starrett asked the State Division of Housing to permit the establishment of a quota system to be known as the "managed waiting list." Starrett would attract middle-income whites by assuring them there were limits on the numbers of blacks to be admitted. Starrett's management wanted to accept only middle-income tenants, but because not enough of them wanted to live in the project, Starrett decided to leave units vacant rather than lower its prices and rent to poor blacks. The State Division of Housing agreed to increase the project's subsidy allocations to cover the expected cost of the forgone rents.

Thus, subsidies enabled Starrett to institute its quota policy. A privately financed project would not have been able to afford to leave apartments vacant until whites applied for them. But more fundamentally, subsidies created the need for the quota policy in the first place. It was only the availability of state housing finance bonds and a low-interest construction mortgage that permitted Starrett to be built on

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its grand scale, without regard to market demand for middle-income apartments in its section of Brooklyn. Starrett, in fact, was built to counter market forces that were drawing middle-income families to the suburbs, not to serve them. Its scale lay at the heart of its difficulties. A smaller project, designed with a realistic sense of how many middle-income families might choose to live there, would have had much less difficulty filling its units with middle-income tenants. Management would then have had no need to resort to racial quotas.

Despite additional aid from the state, Starrett's huge scale continued to be a problem. The combination of its managed waiting list and cost increases—particularly oil costs—threatened to push the project into bankruptcy. Indeed, its management has acknowledged that the complex was saved by another dramatic bailout. In the waning days of the Carter administration, the Department of Housing and Urban Development decided that in addition to its state and federal mortgage interest subsidies, Starrett would be eligible for a massive infusion of federal Section 8 rent subsidies for poor tenants. Over time, subsidized tenants came to dominate the project originally planned for the middle class. As of July 1990, according to Starrett's figures, fully 4,909 of the project's 5,470 units (89 percent) received some form of rent subsidy for the poor. By that same date, between 35 and 40 percent of Starrett families, including many elderly households, were earning less than $10,000 a year.

Projects combining the classes make it more difficult for the black middle class to consolidate its gains

But even in this new context, Starrett's management continued to insist on its managed waiting list—despite lawsuits, first (in 1979) by the Columbia University Law School Fair Housing Clinic and the Manhattan-based Open Housing Center, and later (in 1984) by the U.S. Justice Department. Throughout the protracted litigation, Starrett asserted that its goal was racial integration as a means of preventing the deterioration identified with all-black projects. Attorney Morris Abram, a Reagan appointee to the U.S. Civil Rights Commission who was generally viewed as a skeptic of affirmative action quotas, argued that the managed waiting list was an unfortunate necessity: "In the circumstances that confront Starrett City today, race-conscious tenant selection methods are the only way in which we can even hope to put the problem of race finally behind us."

What Starrett did not say, but its data show, is that its choice of tenants was already narrowed by its dependence on federal subsidy. It did not have a broad income pool from which to draw; its choice, in essence, was between a project dominated by white poor and one dominated by black poor. Because virtually all tenants in the project received rent subsidies, Starrett had neither the incentive nor the ability to select tenants on the basis of their ability to pay. A housing project filled by two-earner families, regardless of race, might well have been acceptable to the surrounding community as well as to management. But because of its need to fill thousands of units, Starrett had to turn to rent subsidies and, despite mounting legal pressure, stick with a system that differentiated among prospective tenants on the noneconomic criterion of race.

In November 1988, the U.S. Supreme Court refused to review a Second Circuit Court of Appeals decision barring Starrett's further use of its managed wait-

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ing list. It is fascinating to note that, in the years since, the now-renamed Starrett at Spring Creek has returned to its original method for maintaining the value of its property: economic, not racial, differentiation among tenants. Citing fears that the federal housing subsidy stream might not be reliable, Starrett has taken the position that it will now rent, whenever possible, to middle-income tenants—the original target population of the project—rather than to new tenants requiring "deep subsidy." During the first two years of this new policy, Starrett rented 120 middle-income units, none to a family earning less than $25,000 and the largest percentage (30 percent) to those earning between between $50,000 and $60,000 a year. Ninety-nine of the 120 new tenants—82 percent—were black. In a subsidized market, Starrett chose to discriminate on the basis of race. In renting to nonsubsidized tenants, Starrett has looked to the ability to pay, and blacks have benefited.

The Starrett City story suggests broader implications for race relations and black upward mobility. It may be generally harmful for blacks when the state supports the construction of large-scale, mixed-income subsidized housing developments, as New York has done to an unusual extent. Consider two other Mitchell-Lama projects not far from Starrett City in Brooklyn and Queens: Fairfield Towers (1,146 units) and Linden Plaza (1,500 units). Both suffer the kinds of maintenance and social problems that were feared by defenders of Starrett's quotas. Like Starrett, these projects were built for the middle-class but without regard to the extent of middle-class demand, and subsequently have had to combine the poor and the better-off. When middle-class residents are combined with those requiring "deep subsidy," solid, striving citizens are inevitably plagued by underclass behavior—a fact of life at Fairfield and Linden. Projects combining the classes, or low-income projects built in middle-class neighborhoods, make it more difficult for the emerging black middle class to consolidate its economic gains, to stake out buildings and neighborhoods of its own, in which price is a barrier to those who do not adhere to middle-class norms of behavior. Moreover, the critical mass of middle-class residents necessary to secure such neighborhoods is diminished because the state lures some of them to subsidized units.

Most ominously, when predominantly black, mixed-income projects decline because of the difficulties posed by the underclass poor, it reinforces the view that too many black people are bad for a neighborhood. Thus whites generalize that they must be wary of blacks, rather than of underclass newcomers of whatever ethnicity. Some of the racial tension in Canarsie, as Jonathan Rieder has written, can be traced to the presence of public housing projects preponderately occupied by low-income black families on the fringe of a neighborhood of one- and two-family homes. By opening middle-class neighborhoods to poor black families who have not yet worked their way up the socioeconomic ladder, such subsidized housing invites middle-class whites to identify race as the problem and to become intolerant even of the middle-class black homebuyer who would otherwise easily fit into the neighborhood.

Thoughtful people may well support a government effort to moderate racially segregated residential neighborhoods in an effort to change school segregation. But when government subsidizes the market, it changes social dynamics in ways that can pose risks for those it seeks to help. In New York, where there is both more subsidized housing and seemingly more racial tension than in just about any other U.S. city, policymakers ignore the relationship between the two at the city's peril. ■

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Reconstructing New York

by Stephen Berger

The political tragicomedy that culminated late in June with the enactment of New York's bad-news budget leads depressingly but inexorably to one conclusion: The government of the City of New York does not work.

It's not that city employees are not hard-working or that they cannot deliver good and even, occasionally, excellent services. But city government, given the scope of its responsibilities, the rules by which it operates, and the resources available to it, can no longer offer basic municipal services of acceptable quality at a price its citizens can afford.

The budgets adopted this year at city hall and in Albany will not solve the problem. Without fundamental changes in city government, budget deficits will reappear every spring, each bringing with it a new round of service cuts and tax increases. Streets will get dirtier and less safe, bridges will deteriorate, poor children will remain poorly educated and grossly discouraged, and taxes will rise.

More radical, permanent solutions to the city's problems are called for. Getting them won't be easy. Neither Mayor Dinkins, Governor Cuomo, the City Council, nor the State Legislature has shown the willingness to go beyond conventional short-term budget-cutting strategies, or to risk the wrath of entrenched interests that proposals for more fundamental change would provoke.

Those who consider themselves realists will no doubt respond that, in New York's current state of mind, sweeping changes in city government are not politically possible. But true realism now requires not only the recognition that there isn't enough money to support the bloated government New York's politicians have created, but that there never will be enough money. In the face of that reality, conventional ideas about what is "politically acceptable" become irrelevant. Measures that are acceptable in this sense are by definition inadequate.

Political Culture and Governmental Paralysis

It is not surprising that Mayor Dinkins and Governor Cuomo find it hard to come to grips with economic reality. Doing so would require that they violate two of the most basic operating principles of New York's peculiar political culture. The first is that no problem can be dismissed as outside the scope of city government. Municipal government, which in most cities is expected to provide no more than a clearly defined set of basic services, has in New York become society's last, best hope for dealing with every imaginable problem. The second

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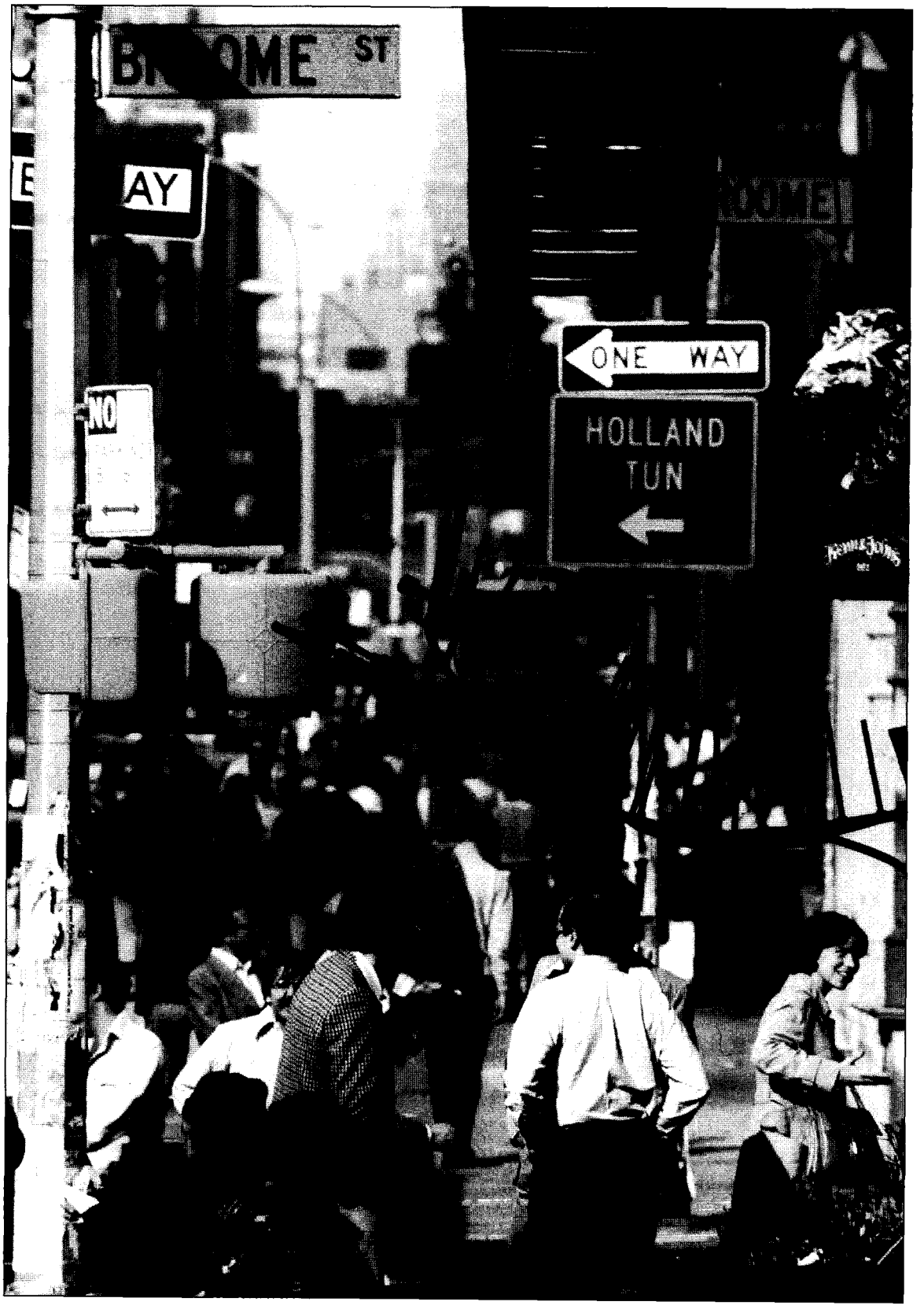

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principle is that city government, despite the rhetoric of its officials, is not committed to helping its citizens obtain the services they need. It has instead become an elaborate system for dispensing benefits to its service providers, mostly members of Civil Service employee unions.

Blind adherence to these principles has made it difficult even to ask hard questions about what city government should do, let alone reach agreement on the answers. The fiscal crisis of the 1970s, for example, produced some long-overdue but temporary belt-tightening, important improvements in municipal financial management systems, and a shift of responsibility for financing some functions—such as the City University's four-year colleges—from the city to the state. But we who were involved in resolving the crisis of the mid-1970s failed to define in any serious way the proper limits of city government's activities. Nor did we question how the city can best assure its residents get the services they need.

The major players at the city's table during the 1970s represented, for the most part, established public and private interests. It was much easier for such a group to discuss who should pay for the City University than to ask why the city should maintain a university after the state had established its own. It was easier to weigh the closing of one or two city hospitals than to consider the feasibility of privatizing all of them; easier to haggle over head counts than to contemplate a thorough overhaul of the Civil Service system.

Across-the-board belt-tightening, without serious changes in the scope or structure of city government, became the primary response to hard times. Then, as prosperity returned in the 1980s, it was all too easy to loosen the belt a notch or two each year. Nearly fifty thousand employees were added to the city's payroll between 1983 and 1990. City payroll costs grew during those years by 36 percent in constant dollars—almost double the rate of growth in the city's economy. Major new initiatives like a multibillion-dollar housing program were launched, and new problems arose—such as AIDS, crack, homelessness—which a city with strong liberal traditions could not ignore.

But the boom couldn't last forever. When it finally wound down in 1989 and 1990, the city found itself seriously overcommitted and deeply in trouble once again. And once again, elected officials are irresistibly tempted to avoid the most fundamental issues. Rationalizations for this avoidance abound: We don't have time to think about such issues when we are dealing with a crisis; the Legislature will never be willing to make hard decisions in an election year; there is no need for major structural changes, because once the recession is over we will be able to restore all the money we have cut; and anyway, it's all the Federal Government's fault.

There are two problems with this boom-and-bust, cut-and-restore, blame-the-other-guy approach. It will never permit the city to establish a long-term, stable balance between its resources and responsibilities. And it forces the city to impose devastating budget cuts on services that really are essential, even as it continues to spend hundreds of millions, or even billions, of dollars on functions that may not be needed at all.

Management-by-roller-coaster also undermines whatever is left of New Yorkers' confidence in their government. They perceive that city officials cannot plan intelligently, manage competently, or make hard decisions. Individual citizens, city employees, and organized interest groups refuse to sacrifice for the sake of the city, because they simply don't trust the people who are asking them to give up things they value.

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Public officials who are unwilling to acknowledge the limited scope of sound city government, and who dare not develop more flexible ways for citizens to obtain vital services, sometimes defend their inaction by insisting that virtually everything city government does is essential. Look behind these arguments, however, and you will find a simple determination to protect existing institutions and interests.

New York's political leaders do not respect their citizens as *customers*, capable of making intelligent decisions about the services they want and ready to pay for what they get. The primary loyalty of New York's political leaders is to its service-providers—to school administrators and teachers rather than to parents and children; to hospital bureaucracies rather than to those who need medical care. Until that underlying attitude is changed, New Yorkers will not get what they are paying for.

It is disingenuous for the Governor and his colleagues to describe themselves as willing to help the city recover when it demonstrates its readiness to put its house in order

Mandate Madness

The fault here does not lie entirely with the Mayor and his city hall colleagues. Defining what city government should do and how it should operate is not solely, or even primarily, the city's prerogative. State legislation, far more than the city's own charter or its local laws, defines what the city does and what it pays for—in the schools, in the Medicaid program, in city prisons, and elsewhere. By some estimates, as little as 25 percent of the city's spending is effectively under the control of the Mayor and the City Council.

The same could be said of *how* the city provides services. Civil Service and collective bargaining requirements, the structure of the city's decentralized school system, rules governing the delivery of health care services—all of these are determined in Albany.

It is disingenuous at best for the Governor and his colleagues to describe themselves as willing to help the city recover when it demonstrates its readiness to put its house in order. They are, after all, coauthors of the very conditions they bemoan. Albany politicians and bureaucrats who never met a mandate they didn't like, who try to dictate everything from grade-school curriculums to the deployment of police, seem to suffer collective amnesia when it comes to taking responsibility for what they themselves ordain.

An Agenda for Reform

The fiscal problems that plague the city and the state will not disappear in 1992 or 1993. A thorough review of what government does in New York, and how it is done, is therefore essential.

New York should, for example, completely overhaul state and city financing and delivery of health care. It makes no sense to have local governments pay for nearly a quarter of a $13 billion Medicaid program which is managed by the state. Medicaid, perversely, has become a form of city financial aid to the state. Governor Cuomo's proposal to phase out local contributions to the program makes a great deal of sense. But two critically important details remain

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unclear: how much revenue local governments will need to forgo in exchange for the state's assumption of all Medicaid costs, and to what extent the state will be willing to limit Medicaid spending. The more serious Albany is about containing costs, the less it will have to demand in revenue transfers.

At the same time, city officials should recognize that with the spread of private health insurance and the advent of Medicare and Medicaid, the original rationale for the municipal hospital system—providing services to those who could not afford private physicians or hospitals—is no longer as compelling as it once was. While many city hospitals continue to provide essential services in specific communities, it is not at all clear why they should be owned or operated by the city, which must take responsibility for deficits that under private management might be significantly reduced.

There are several possible alternatives, including consolidation of services, contracting out management of some hospitals to nonprofit or proprietary operators, and even outright sale to a private corporation. The city should not be operating a gigantic hospital system. Instead, it should work in partnership with the state to assure that all New Yorkers have access to good medical care. The "managed care" program recently adopted by the State Legislature represents a step in the right direction.

Just as assuring universal access to health care doesn't require that the city operate its own hospital system, assuring access to higher education for all qualified New Yorkers should not require the maintenance of two large public university bureaucracies: the state and city universities. The goal of making higher education broadly accessible, without regard to income, could be met more effectively and less expensively by expanding state grant and loan programs for low-income students at both public and private colleges. The added cost could be offset by substantial increases in tuition—say, to $4,000—at CUNY and SUNY, and by consolidating and shrinking the university bureaucracy.

There are many other state and city agencies that duplicate each other's functions: employment services, human rights, consumer protection, support for the arts, and economic development agencies are among them. There are ample opportunities here for substantial reductions in the city's bureaucracy, and for eliminating some agencies outright.

Centralization and Decentralization

New York needs to rethink not only what services it provides, but how it provides them. Many large, highly centralized city bureaucracies never develop the intimate knowledge of specific communities they need to deliver responsive, high-quality services. Child welfare services, for example, could be more effectively provided through smaller agencies at the neighborhood level.

There are other areas, in contrast, where the paralysis of entrenched interests can be overcome only by concentrating responsibility in one place. The management of the city's capital program, for example, is scattered among too many independent offices, bound by too many archaic rules, and burdened with too many political commitments and constraints. Planning and carrying out investments in essential public infrastructure are functions as basic to city government as education or law enforcement. Yet there is no equivalent of the schools chancellor or the police commissioner who can be held accountable for the city's infrastructure.

While the city's capital plan and its financing should be subject to the political process, day-to-day planning and management should be insulated from politics. One way to accomplish this would be to establish

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a new position in city government: the office of chief engineer. To provide the necessary degree of independence and autonomy, the chief engineer should be appointed for a fixed term, and should be removable only for cause.

He should be given broad authority to overhaul the city's contracting and project management processes. He should, for example, be free to use general contractors, construction management firms, or in-house managers at his discretion. He should be able to select contractors by open competitive bidding, select-list bidding, requests for proposals, or one-on-one negotiations, and should have full authority to experiment with innovative contract forms, including those that incorporate financial incentives for contractor performance and "fast-track" construction.

An official with a long-term perspective on infrastructure investment could help get the city out of the vicious cycle in which the capital budget in good times becomes a wish list, but in bad times is city hall's first choice for evisceration.

Even this level of political discipline may not be enough, however. Perhaps the most effective way to avoid both political pork-barreling and not-in-my-backyard nihilism would be to bypass the conventional legislative process altogether, and to have the chief engineer submit the entire capital program and financing plan directly to the voters in a referendum.

Ironically, centralizing responsibility for the capital program would make it easier to decentralize those elements that could best be managed at the neighborhood level. The chief engineer, for example, could give school principals greater responsibility for upgrading and maintaining the buildings they manage. The idea is not to choose either centralization or decentralization, but to strike the proper balance between them.

Civil Service Administration versus Human Resource Management

Finally, the city must overhaul its management of its own human resources. Changing archaic work rules that raise the cost of city government would help, but it is time to move more boldly. Do city employees really need both Civil Service protection *and* the right to bargain collectively?

Do city employees really need both Civil Service protection *and* the right to bargain collectively?

The entire Civil Service system is an anachronism. It dates from an era when tenure protected government employees from political exploitation. Its rigid scheme of job "titles" is inconsistent with everything American industry has learned in the past twenty years about how to manage efficiently and how to make work satisfying for the people who do it. Its elaborate examination procedures have little to do with performance on the job. Moreover, the Civil Service is much less effective than the employees' own elected representatives in protecting their legitimate interests. It is not worth trying to fix; it should simply be eliminated.

Rules for Reconstruction

The full agenda for state-city reform is too lengthy to be presented here. But it should reflect several important principles. The first is that *the city's residents are its customers*. Like any well-run, customer-driven business, its role should be to determine

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what customers need and want, and to help them get it.

A second principle derives from the first. *The scope and purposes of city government should be defined by what the city's people need and want, not what the city bureaucracy currently provides*. The fact that public employees, elected officials, and union leaders may have a vested interest in an institution should not be enough to justify its continued existence.

New Yorkers care about the quality of essential public services, but they generally don't care who delivers them. Decisions about public versus private delivery of services should thus be made on a case-by-case basis, according to who can do it best and most efficiently, rather than on the basis of ideology.

A third principle is that *delivery of public services should maximize the range of choices available to citizens who use them*. Few public services are natural monopolies, but established service-providers often insist on maintaining monopoly positions. And just as in the private sector, monopolies in government tend to deliver less responsive, lower-quality services at higher cost. If citizens are to hold public officials accountable for the quality of their work, then the right to choose is as important as the right to vote.

Defenders of the status quo often argue that widening the range of choice available to consumers of public services such as schools will hurt the poorest and most vulnerable New Yorkers, who don't know enough to exercise such freedom intelligently. Yet the truth is that poor people stand to gain the most from greater freedom of choice. Being able to decide which schools will educate their children is as important to parents in Bushwick as to parents in Riverdale.

Fourth, *responsibility for management and delivery of services should be shifted from the city's centralized bureaucracies to the neighborhood level wherever possible*. This concept, which enjoys nearly universal support in the abstract, is exceedingly difficult to implement—partly because central bureaucratic interests are so deeply entrenched, and partly because city officials have seldom been willing to do the hard work required to make neighborhood-based services a reality.

Fifth, *the city and state must develop a new approach to the rational pricing of public services*. New York's elected leaders automatically equate public service with free, or at least massively subsidized, service. But a government that would rather let its bridges rot than impose tolls on them, would rather cripple the Staten Island ferry than raise fares, would rather gut New York Technical College than raise tuition for CUNY graduate students, is not demonstrating its commitment to social justice—only its stupidity.

Finally, *the goal of this exercise is not simply to save money*. By establishing a better balance between resources and responsibilities, we hope to allow the city to discharge essential functions more effectively. A city government that educated all our children well, especially those of the poor and the growing immigrant population; that kept our streets safe; that built and maintained the infrastructure needed to keep the city livable and its economy viable; and did little or nothing else at all would serve its people better than they are being served today by a government that pretends it knows no bounds, yet can't seem to do anything right.

What New York faces today is not just a fiscal crisis. It is, to borrow Arthur Schlesinger's phrase, a crisis of the old order. We cannot afford to keep paying for New York's governmental sprawl—nor should we want to. The government of New York as it has existed for the past several decades has been a source of great good, but also of great folly. We should honor its achievements, but we should not mourn its passing. It is time to build something else. ■

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URBANITIES

The New Communitarians

by

Jules Cohn

The emerging communitarian movement is an effort by an odd collection of academics to come up with a new perspective on our social problems by turning to some old-fashioned themes: the moral state of the commonweal, the obligations of citizens, and the need for "social virtue." Prominent among these thinkers are professors of social science, literature, and law. In their recently founded journal, *The Responsive Community*, they describe themselves as "neither right nor left, liberal nor conservative." Most communitarians, however, were once liberals, who believed in governmental solutions for social welfare problems. Now they are catching up with events in the real world, and want to come to terms with what they recognize as the unwanted consequences of their old ideas.

The communitarians argue that our prospects for achieving a reasonably harmonious civic consensus are undermined by the proliferation of interest groups that take only their own needs into account, whether they pursue narrow aims at the local or neighborhood level, or define themselves by their economic goals, sex, sexual preference, race, or religion. Critical of the politics of "self-interests," the communitarians want to reassert the importance of the common good. Furthermore, they contend that dependence on public programs has turned too many of our citizens into passive or indifferent clients of government, availing themselves of benefits and resources without taking heed of the costs entailed or actively participating in what was meant to be a system of self-government.

The communitarians want Americans to take more responsibility for themselves and to strengthen their attachments to basic institutions—family, school, workplace, neighborhood, and religious fellowships, as well as local governments. To remedy the decline of civic standards, according to them, we must forge agreement on the obligations of citizenship and norms of reciprocity that would require competing interests to honor community values alongside their own.

Significantly, the new communitarianism bears no resemblance to the community control movement of the 1960s, which was driven by the spirit of entitlements, not by a

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call for citizen responsibility. The community control movement sought to decentralize the administration of schools, housing, and poverty programs by transferring power from big-city bureaucracies to local groups. It ignited considerable conflict as groups fought over community resources. Its divisive effects are still being felt, particularly in New York's school districts.

Cooperation and obligation, rather than conflict and entitlement, are the bywords of communitarianism. The communitarians envision citizens creating the good society by working together at the local level, in groups of many kinds, to make their institutions function and to uphold standards of public behavior.

To be sure, these ideas are not entirely new. For one thing, they hark back to Rousseau's emphasis on the "general good." But in the main the communitarians have turned away from European collectivist theories, especially Marxism. Their program is basically American in its roots; the optimism that characterizes some of their leading propositions and the large doses of sentimentality and utopianism that crop up in their writings also have a homegrown ring.

The new communitarians have been influenced by Jefferson, who enriched the ideal of decentralized government with the hope that active participation in public life would ennoble ordinary citizens. Their ideas also recall Emerson's vision of a vibrant civic morale stemming from the self-reliant efforts of individuals.

Another precursor of today's communitarianism is Edward C. Banfield, whose studies of community politics emphasize the connection between the basic values of individual citizens and the quality of civic life. It was Banfield who first demonstrated that deep cleavages in civic life have a profoundly disturbing effect on the ability to govern. His analysis was stark, however, unlike the communitarians'. As he saw it, self-interest is the main motive in everyone's political life. Thus, the proper role of political leadership is to build a community by providing as many accommodations to individual interests as possible, rather than preaching against them and holding out for the arrival of "social virtue."

More recently, the insights of some contemporary social critics have paved the way for the emergence of communitarianism. Charles Murray and James Q. Wilson, for example, advocate public policies that stress citizen responsibility instead of entitlements. And Nathan Glazer has recently commented on our need to reassert the right of the community to pass judgment on deviant and destructive behavior, using as an example New York's streets, where the most ordinary rules of civility no longer prevail.

In their writings the new communitarians are often suckers for the quaint tone and the homespun anecdote. Some of their work brings to mind the writing of more-optimistic eras, when Philadelphia boosters could with a straight face advertise the city of brotherly love, and New Yorkers could

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enjoy the sweetness of riding back and forth all night on the Staten Island Ferry, unmindful of muggers. But despite some cloying affectations, the new communitarians are addressing an important matter.

Some communitarians, more evangelical than clinical in describing our current problems, center their attention on what they see as a spiritual malaise. Thus the communitarianism of Robert N. Bellah, Richard Madsen, William M. Sullivan, Ann Swidler, and Steven M. Tipton (hereafter known as Bellah et al.), authors of *The Good Society* (and an earlier volume, *Habits of the Heart*), rests on a moral vision of social life.

The members of this West Coast group envision a reconstituted civic life centered on collective reflection about the "ultimate problem of meaning." Unfortunately, what they mean by this is never clarified. Their book, one part sociology and one part Garrison Keillor, is a folksy effort to examine the possibilities of revitalizing our basic institutions through enhanced citizen participation at the local level.

Bellah et al. offer some worthwhile suggestions for improving our local schools. They would, for example, revive the long-neglected study of rhetoric to teach students how to think about ethics and morality in a disciplined way.

They are especially interested in local religious institutions and would like to see them become models for other civic organizations, fostering a sense of mutual obligation and responsibility. They regret the rise in our time of the "caucus church," whose spiritual mission has become politicized. The church as advocacy organization, they argue, has compromised its authority as the guardian of faith.

Bellah et al. are also acute about what is wrong with the way New Yorkers live. The city's elites, they observe, isolate themselves from the rest of the community by spurning public services (supported, to be sure, by their taxes) in favor of private consumption. They buy what they want (private schools, private security guards, limousine and catering services, housekeepers, health clubs, doormen), and tolerate inferior services for the poor.

Undaunted by present reality, these communitarians propose making New York a test case for their program of "civic equality," ready to enlist in their crusade all those well-off New Yorkers holed up behind their doormen.

Unfortunately, most of the communitarian program proposed by Bellah et al. amounts to nothing more than the old utopianism in a new bottle. Calling themselves "ambassadors of trust in a fearful world," these California dreamers, unwilling to discard all their ideological "habits of the heart," have merely shifted their focus from a utopian reliance on government programs to a utopian reliance on making people feel good about being socially responsible.

Christopher Lasch, a onetime "progressive liberal," who now says he has lost faith in progress, aims to approach communitarianism from a philosophical rather than an evangelical standpoint. In *The True and Only Heaven* he blames "the whole modern project" for our current crisis of civility, and presents communitarianism as a pessimist's compromise between "hope and fatalism."

Lasch complains that centralized programs have turned people into clients instead of active citizens, and emphasizes the need to educate and develop a responsible citizenry who would rely less on programmatic solutions for our civic problems. He would like to see local units of work, politics, and culture fashioned by citizens themselves serve as mediating agencies on behalf of the "lost individual" of modern democratic life.

But Lasch is unable to acknowledge the important connections between free markets and free institutions. Instead he is

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preoccupied with accusing our economic system of fostering greed and rebuking liberals for their faith in large-scale production and centralized administration. As an alternative to all that he derides, Lasch relies on a fantasy of his own—a populism for the twenty-first century that finds moral inspiration in old-time grass-roots radicalism.

A number of new communitarians claim to be practicing their faith already by endeavoring to forge networks of like-minded souls devoted to shouldering responsibility for the common good. They have launched a new journal, *The Responsive Community*, in Washington, D.C. (with, they note, "voluntary labor, dedication, and commitment"). The journal's editors, in an inaugural issue, call on readers to form local groups to "engage in dialogue" to "make our shared community more responsive."

One of those editors is Mary Ann Glendon, a professor at Harvard Law School and author of *Rights Talk*. Glendon exhibits neither the evangelical optimism of Bellah et al. nor the disingenuous new-found pessimism of Lasch. Presented within a framework of law and constitutionalism, her rigorous analysis stands out among the work of the communitarians.

Glendon traces the disorder in our body politic to our present "rights mentality." Her felicitous phrase is that we are "saturated with rights": the rights of trees, animals, smokers, nonsmokers, consumers, etc. This ever-growing list serves to trivialize rights that are central to democratic life.

Our obsession with rights has placed the self at the center of our moral universe, she maintains. Her most effective image, evoking the Lone Ranger of radio days, is of a "lone rights bearer." This dude, rather than wandering the range on the lookout for injustice to others, now champions only his own rights. He is "radically free."

According to Glendon, our reliance on the language of rights makes us adversaries; we go to court rather than solve our problems through politics. She points out that most lawyers "know that the assertion of rights is usually the sign of breakdown in a relationship." Yet all too often, we prefer the test case to the give-and-take of deliberation and negotiation.

Reliance on the language of rights makes us go to court rather than solve problems through politics

For example, Glendon illustrates how debate on abortion in this country has resulted in a "deadlocked clash of rights." She provides an intriguing critique of the privacy argument used by pro-choice activists: "Privacy," she writes, has been made into a "superright, a trump," outflanking rights that properly belong to the community. To Glendon, the pregnant woman has rights but also obligations (to the unborn child, to society). Only a shared communitarian outlook can resolve the issue, she suggests.

Glendon calls for a return to the democratic political process as the primary means for solving such conflicts. She is only moderately encouraged about the prospects for implementing communitarian remedies for our difficulties. One hopeful sign, she writes, is that the Supreme Court is relaxing its grip on issues heretofore removed from legislative and local control, allowing the democratic processes of bargaining and persuasion to supplant the nonnegotiable "clash of rights" by which we are too often divided.

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As rendered by most of its other proponents, communitarianism is drenched in sentimentality, especially when it idealizes or abstracts real life in the local community. Its goals of social solidarity, on the one hand, and the development of an active and ethical citizenry, on the other, are a tall order, calling for subtle but all-important adjustments between obligations and rights.

In disavowing programmatic, centralized solutions to social problems, communitarians center their attention on the local community, in the hope that its members somehow will be bound together by shared moral standards. But from the standpoint of the harsh community life in New York City, their hope is a pipe dream. The communitarians seem to know little about politics and less about literature, for their commendable efforts to develop a practical plan are uninformed by the tragic vision that ordinary New Yorkers find in their reading of the daily newspapers and their descent down the subway stairs.

The communitarians, evasive about the force of individual self-interest, fail to explain how their proposals will prevail against ordinary "me-tooism" in planning boards, town meetings, housing projects, suburban enclaves, factories, and offices. Nor have they come to terms with recent discouraging episodes in various communities in New York. Surely, the destructive battles for control of school boards and the intergroup conflict currently raging over "multiculturalism" indicate the poor prospects for achieving the consensus envisioned by Amitai Etzioni's "invisible moral colleges" at the local level.

Communitarianism may well turn out to be a halfway house. Still holding on to their illusions about benign human nature, and inclined to see evil only in markets and materialism, its proponents are at least renouncing some of their old doctrines. But communitarianism's advocates have yet to formulate an integrated, systematic expression of their ideas to match the complexity of our civic problems. Perhaps the most significant contribution of the new communitarianism is the idea that our citizens themselves, accustomed to claimant politics and the rhetoric of rights, are the key to our problem.

Grand Central: The Peace of Great Space

by

Nicholas King

A legendary New York experience is to walk down the steps of Grand Central Station when the sunlight is streaming in through the great gridded windows to illuminate one of the most majestic enclosed spaces anywhere.

Grand Central Station, now almost eighty years old, embodies a dedication to urban dignity, to aesthetic vigor, and to engineering genius rare in any age and unknown today. In addition it is the landmark of landmarks, the cause célèbre of a Supreme Court decision that upheld the city's policy of preserving historic architecture.

But in a post-railroad age, the problem of holding the stones and bones of Grand Central Terminal together, of finding a rewarding use for this beautiful urban monument that now confronts us, is not a simple one. Saving Grand Central is as much a question of function as it is of money. Money alone could save its architecture, but it would be saving little more than a museum to preserve the memory of the railroad train. To save Grand Central in all its glory, as the bustling center of America's greatest metropolis, requires more than mere money; it requires imagination and initiative.

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Grand Central still has, of course, plenty of function. Five hundred suburban trains filled with tens of thousands of passengers pull in and out of the station every day. It is an important subway crossroads, and it is also in the path of a great number of pedestrians who, crossing the busiest hub of midtown Manhattan, are physically obliged to pass through its vaulted spaces if they want the quickest passage from east to west, if not from north to south. Finally, the grandeur of Grand Central Station attracts tourists and shoppers and all those who thrive on bustle.

The New York Central Railroad built Grand Central in 1913—in an age when rail travel and freight hauling were still increasing, and railroads were the megacorporations of the age, controlling banks, real estate, utilities, and, of course, hotels. Trains ran from Grand Central to points all over the Northeast and Midwest, the most popular destination being Chicago. Now no long-distance trains roar through Grand Central, traveling instead to the less convenient and much-diminished Pennsylvania Station.

The building of the terminal was a ten-year epic. Beaux-Arts architect Whitney Warren is generally credited with the design, although of course it was a product of several hands, including those of William Wilgus and Charles Reed. It was also a feat of engineering, with 48 platforms and 123 tracks on two levels, making it not only the biggest but also the most sophisticated railroad station in the world.

The concourse itself was 470 feet long and 160 feet wide—exactly the dimensions we admire today—and the vaults rise 125 feet, the whole forming a man-made canyon lit by natural daylight pouring through huge gridded windows east and west and rounded clerestories north and south.

The front of the building faces south (in those days toward the heart of the city), and its facade is perhaps New York's single most sumptuous piece of architecture. It resembles a triumphal arch, with three great Roman windows surmounted by a curved pediment and frieze, crowned by a colossal group of classical statues dominated by Mercury—divine messenger and god of commerce—whose outstretched arms and raised caduceus epitomize the pride and power of New York in 1913.

It is not surprising to learn that when the terminal was at last completed and its doors were thrown open on a February midnight, a mob of three thousand was waiting to rush in.

With the passing of the long-distance trains, and the passing, too, of the economic and political power of the railroads, Grand Central, like the country's other great terminals, is a monument with no foundation—"an orphan," says Kent Barwick of the Municipal Art Society, which was instrumental in saving the station in the Seventies. It has to be preserved, he explains, in bits and pieces. For example, commuters are not going to be particularly interested in a huge urban monument. They want the functionalism of a suburban station; they want a destination to dash through—although planners hope that upgraded retail attractions will waylay them.

Such retail upgrading would include good restaurants, a movie theater, a cultural space, and so on, and could triple the terminal's present income. Or so Metro-North, which has launched an impressive restoration and renovation program estimated to cost $400 million in public and private funds, clearly believes. The restoration, dedicated to painstakingly repairing the building's infrastructure and redoing the vast painted ceiling, is technically separate from the more controversial renovation of the building.

That plan calls for a rethinking of Grand Central's functions, both present and potential. The intention, say the planners of

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Metro-North, is to make the terminal into a "civic center" that would be "a destination in its own right." This calls for certain structural and cosmetic changes designed to increase commercial revenue, which have inspired fears that Metro-North wants to transform Grand Central into a mere mall.

What is the precise danger of a mall? How close are the planners to making the terminal into an enlarged version of Union Station in Washington, D.C.? Not close at all, is the brisk answer of John Belle, the Metro-North project's chief architect and planning spokesman. To begin with, Grand Central is in the middle of a city and serves all kinds of purposes besides those of a railroad station. It is true that half a million people move through the terminal daily, and these people can "rightfully" be offered services other than boarding and getting off trains. He envisions a galleria-style entrance leading from Lexington Avenue, both on the concourse level and underground, lined with shops and perhaps a movie theater and restaurants.

He also envisages a second monumental staircase on the east side of the concourse, matching that descending from Vanderbilt Avenue. More controversially, he wants to dig two large, square holes, fifty feet on a side, in the concourse floor, east and west. These indoor oculi, as it were, are intended to stimulate "breathing" between the lower and upper levels and to create a visual connection between the floors.

This proposal has drawn fire as a self-conscious frill; Grand Central needs no further decorative statements of this kind. Similar objections have been raised to the Lexington Avenue arcade, although that can be better defended from a revenue viewpoint. Another proposed change, the opening up of the vaulted ramp to the Oyster Bar, now blocked by ticket windows, has won general approval.

Restoring and then renovating Grand Central is estimated to take ten years, but no one really knows how long it will take or how much of it can be done at any one time. For example, many design decisions must wait on the restoration of the fabric of the present building, whose stone and marble, bronze and tile are eighty years old and have taken tremendous wear, whether from air pollution or from shoe leather. What is wrong with the marvelous blue-and-gold zodiac ceiling and how it can be restored is a tale in itself.

Although there may be objections to the plan's details, there is no doubt that, in essence, Metro-North is right: If the crowds will not come to the trains that are no more, then they must come for some other purpose.

Luckily, the terminal remains stubbornly in the way of almost everyone who wants to cross midtown. It may be that its permanent role as the thriving crossroads of Manhattan will save it.

There is another half-forgotten but critical aspect to all plans for the future use

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of Grand Central, which is the question of who owns it, and especially the air over it. The air rights still belong to the nominal owner, the Penn Central Railroad; Metro-North operates under a lease good until 2032. Any improvements theoretically must be approved by Penn Central, which could, when the lease is up, increase the rent on the basis of the improvements.

But the air rights are more important, since they represent the only in-the-hand financial assets to which Penn Central can lay claim. When the Supreme Court upheld the terminal's landmark status, Penn Central sought to transfer the air rights to other property. It thought it had found the solution in a 72-story tower on Madison Avenue and 47th Street, but that was ruled out because of "human density" in the neighborhood. Proposals to use the air rights for other buildings may be forthcoming, but the state of the commercial real estate market will slow them down.

One may ask whether these great projects, now scheduled to take ten years, will ever be completed, except for a few bits and pieces. It is possible that the space will be saved but the building will be different, like the cathedrals of the Middle Ages, which started one way and ended up looking quite different.

For in the end, we must speak of Grand Central Terminal poetically. It is not a cathedral, and so it has not got God to justify it. But it does have a spiritual dimension, a dimension of beauty for which its supporters fight. They may justify preserving the station for the sake of the city's quality of life, or make a case for it out of urban logic, but its spiritual beauty is what they mean. It is about as religious as most people nowadays seem able to get.

After all, the Parthenon—apart from its practical uses—was in its day a destination in itself. It still is.

In Appreciation

A Tour of New York's Clubland

by

Anthony Lejeune

The convenient thing about New York, Bertie Wooster said in the very first of P. G. Wodehouse's Jeeves and Bertie stories, is that it's right there when you get off the boat. I belong to a generation which, regrettably, never sees the towers of Manhattan and the Empire State Building come up over the horizon. Landing at Kennedy just isn't the same thing. But I quickly renew my taste for American things—Coca-Cola, the scent of roasting hot dogs and chestnuts at the street corners, even American television. It's comforting, however, to have bolt holes in New York where an Englishman can feel more at home. The gentlemen's clubs of Manhattan, with which the clubs of Pall Mall and St. James's Street mostly have reciprocal arrangements, offer just such friendly comfort.

Although I've never tried, I imagine you could get Coca-Cola in even the most old-fashioned of New York clubs, which is not true on the other side of the Atlantic. Indeed, two members of the Cavalry Club in London, after idly discussing that very question, decided to put it to the test. Summoning the wine waiter, they asked if there was any Coca-Cola in the club. Drawing himself up to his full six-foot-two, he replied freezingly: "For drinking purposes, sir?"

But, in general, New York clubs are very like London clubs. The founders of the Union Club in 1836 specified that it "should be similar in its plans and regulations to the great clubs of London which give a tone and character to the society of

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the British metropolis." Like their British originals, some of the older New York clubs evolved from groups of friends who met in coffee houses and taverns. But if the clubs of St. James's Street are haunted by the ghosts of Regency bucks and dandies, the New York clubs always seem to me redolent of another period—the confident, firmly rooted, literate, polite society of Henry James and Edith Wharton. The members frequently speak in mid-Atlantic accents which have more in common with Ronald Colman than with modern Hollywood.

American clubs tend to be more luxuriously appointed than their British equivalents; the leather armchairs are less shabby. The portraits on the walls, being newer, are probably worse. The Century has traditionally welcomed artists. A director of the Metropolitan Museum, dining there as a guest, looked incredulously around and asked, "Just how bad an artist does one have to be to get into this club?"

American clubmen, typically, are very hospitable to their English guests. A visitor from London's Garrick Club said he liked everything about the Players except that he could never get to bed, because the members kept pressing more drinks on him. Lunchtime is another matter. The Lotos Club may have been named, in 1870, after Tennyson's Lotos-eaters, who came to a land "in which it seemed always afternoon," but I have found myself alone in the Knickerbocker at two o'clock because everybody has rushed back to Wall Street.

The New York clubs are, in a way, more socially exclusive than the London clubs and stricter in their rules. These things are complex and subtle. A notoriously cantankerous aristocratic member of White's complained in the nineteenth century that what he called "my tradesmen" were now being elected to the club—by which he meant bankers and lawyers. Bankers and lawyers have always been socially acceptable in New York (not all lawyers, of course), but Sumner Welles grumbled in the 1950s that "there's no such thing as Club Society anymore. They can't even keep in the men they used to keep out."

At two of New York's most charming clubs, the Brook and the Coffee House, members and their guests all sit—as they do at the Beefsteak and Pratt's in London— round a single long table; they are not allowed to be unsociable. One old member of the Brook used to rise, silently but promptly, if someone he disliked sat down at the table, and would go off to complete his meal at a neighboring restaurant. "He's had a great many Brook Club soups," observed a fellow member, "but he's never yet gotten to the demitasse."

Nobody joins a New York or a London club for the gastronomy—conversation is supposed to be the point

Nobody joins a New York or a London club for the gastronomy; what one clerical clubman called "the piece of cod which passeth all understanding" is all too common fare. Conversation is supposed to be the point. Or, rather, there are two conflicting points: refuge and company, which is why real clubmen need at least two clubs—one where they can hide grumpily behind a newspaper and another where they can talk.

The Coffee House was originally a breakaway from the Knickerbocker, founded in 1914 by a group of dissidents who were "fed up to the tops of their detachable Arrow collars with the Knickerbocker and its brass-buttoned flunkies, silver duck

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presses, and gold-plated table conversation." Instead, they would have a small club of members uninterested in "business or wealth or such things that business and wealth produced or implied." Their inclination, like that of their successors today, was towards the literary and theatrical; an early membership list included such names as George Arliss, Robert Benchley, Douglas Fairbanks, Stephen Leacock, Cole Porter, Booth Tarkington, and P. G. Wodehouse. They hoped for warm, witty, welcoming company which would resemble Dr. Johnson's Club in eighteenth-century London or the fabled New Yorker table at the Algonquin. Did they succeed? Present members, after a due—but brief—pause for modesty, would say so.

Somebody once said that a club should have only two rules: (1) that every member shall pay his subscription, and (2) that every member shall behave like a gentleman. The Coffee House has not achieved quite that degree of brevity—but almost. This is its entire constitution:

No Officers
No Charge Accounts
No Liveries
No Tips
No Set Speeches
NO RULES

The Brook is a much grander club, physically and socially, than the Coffee House, but no less friendly. The name, taken from Tennyson's poem, is supposed to mean that the club is always open and the conversation flows on forever. Neither is strictly true, which may be just as well. The bar, all polished wood, reminds me a little of Cheers. The barman is no Sam Malone, but everybody soon knows your name. The atmosphere of any club depends greatly on its servants, and the courtesy of an old-fashioned staff is particularly pleasing in New York, where the headwaiters in fashionable restaurants have been allowed—or so it strikes a visitor—to become extraordinarily autocratic and offhand.

Rising costs, staff problems, and changing patterns of urban life have affected both New York and London. Bar profits are falling because of the current wave of puritanism, which is bad news for club treasurers. One reason why ladies' clubs have never really worked is that women do not drink or lunch seriously enough for the clubs' financial well-being.

The woman problem has been wracking New York clubs and is being watched

uneasily from across the Atlantic. In Boston a woman judge threatened not to renew the liquor license of one old-established club unless its rules were changed to admit women as members. The club, instead of swearing that its members would drink Perrier water until hell freezes over rather than be dictated to, meekly surrendered.

In New York, Local Law 63 says that if a private club has more than four hundred members, regularly serves meals, and accepts payment from members "in furtherance of trade or business," it will be deemed "not distinctly private"

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but a "place of public accommodation" which "may not discriminate on the basis of race, sex, creed, color, national origin, or sexual preference."

Some clubs, including the Coffee House and the Century, perhaps because their membership leans toward the artistic and intellectual, Bohemian characteristics, put up scarcely a token resistance. Others were made of sterner stuff. The Racquet Club, for example, sent a toughly worded letter to all its members. In order to keep the club out of the clutches of Local Law 63, the letter said,

> you should not be reimbursed for dues or house account charges by any business with which you are involved. Business discussions of any kind, including business deals, must not take place anywhere in the building.
>
> We feel that our existence as a private club is seriously threatened. If you do not feel that you can live with the spirit and letter of our rules, you should resign. If we discover that you are violating these rules, you may be expelled.

Some women had argued that exclusion from clubs adversely affected their careers in the professions, arts, and business. Of course, nearly all the women now being admitted to the clubs that formerly excluded them have already reached the height of their careers—without the help of club membership.

Most clubs now provide ample accommodation for women guests who, as the Union says firmly, being ladies, would not wish to intrude on those parts of the building reserved for men. Wives, widows, and daughters often have special privileges. The River Club is intentionally a family club, a delightful pied-a-terre in midtown Manhattan.

New York has almost as many clubs as London—clubs for the old upper-class, clubs for alumni of Ivy League colleges, clubs for actors, clubs for writers, predominantly sporting clubs, small intimate clubs like the Coffee House and the Leash, architecturally magnificent clubs like the Metropolitan. Not so long ago they were featured heavily in movies, novels, and cartoons. Sophisticated heroes belonged to them. They were a point of social reference. If such sequences occur less often now (an exception is the admirable detective stories of Haughton Murphy, who is himself a member of the Century), the reason may be that club life and the social assumptions that accompany it have become unfashionable among the trendy young folk who control the media today.

This is no loss; the point about a club is that it should be private. Publicity is anathema. But the clubs themselves are still there, offering the quiet conviviality, the civilized manners, the refuge from uncongenial modernity that true clubmen seek. The surprising thing really is not that they have survived, but that there aren't many more of them and that they are not more heavily used. Where else can a bachelor, a widower, or merely someone whose wife is engaged elsewhere, or a stranger in town—any solitary man who prefers not to eat and drink alone—go without embarrassment or prior arrangement to enjoy the company of his peers? Does any hotel now provide the simple amenity of a communal table, which every English coaching inn and every staging post on the Western trails used to supply? If so, I've never found it.

I met an elderly American in Brooks's Club. He said that when he was in London, he always stayed at Brooks's. When he was in Rome, he stayed at the Caccia. When he was in New York, he stayed at the Knickerbocker. Since he didn't much care for today's world, he hardly ever went outside and was therefore never quite sure what country he was in.

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He and I, as I recognized immediately, were fellow citizens of the same country, where the climate is always warm and the natives are friendly—Clubland.

Letter From Pelham Parkway

by

Keith Elliot Greenberg

The Commission for Forgiveness of Blood came to Pelham Parkway with its work cut out for it.

For generations, this tidy middle-class Bronx neighborhood has served as a refuge and beacon for successive waves of immigrants moving up and onward out of crowded city tenements and into the neat red brick two- and three-family houses that line Pelham Parkway's well-swept streets. Even today Pelham Parkway retains something of its bucolic pretensions. Horses roam the bridle paths leading past traffic into Pelham Bay Park. Columned minimansions stand graciously before the wide green traffic islands that punctuate Pelham Parkway, the thoroughfare from which the neighborhood takes its name. Once the showpiece of the "Borough of Beautification," Pelham Parkway also boasts both one of the world's largest collections of wild animals (the Bronx Zoo), and of cultivated plants (the 230 acres of azalea, rose, rock, and herbs of the New York Botanical Garden).

Many of the Italians and Jews who enjoyed breathing the relatively open air of Pelham Parkway have long since moved on to even greener pastures. In mid-1990, the Commission for Forgiveness of Blood came to town to address the urgent concerns of the newest and most exotic group of Bronx immigrants: the Albanians.

The Albanians have always been a fighting people, survivors of war, first with the Romans, then the Byzantines, then with successive waves of Slavic warriors from the north. In the fifteenth century, the Turks arrived, ruling for five hundred years until, in 1912, Albania finally declared its independence. Serbia took advantage of the ensuing confusion to grab much of Albania's eastern territory, which was incorporated into Yugoslavia upon its formation in 1918. Most Albanians in the Bronx are from Yugoslavia; immigration from Albania proper stopped in the Sixties, when Stalinist dictator Enver Hoxha cut off all escape routes from his nation. When Tito died in 1980, his fragile nation of manifold nationalities began to disintegrate, and Albanian immigration from Yugoslavia into the Bronx surged.

"After each war, the side that doesn't win comes to America," says Isuf Hajrizi, manager of *Illyria*, the twice-weekly Albanian newspaper published in nearby Belmont.

The 15,000 Albanians in Pelham Parkway, mostly members of the clannish Geg tribe, had already faced the common hardships of immigrants mastering a new land, a new language, a new culture; now they gathered to confront a peculiar difficulty of their own. Each new immigrant group brings to New York its own strengths and weaknesses; the Albanians bring close-knit families, a strong sense of honor, a fierce drive for independence—and a penchant for blood feuds.

For generations in Albania, the blood feud had been the principal means of settling family disputes. They still talk in Pelham Parkway about the quiet Albanian fellow from Yugoslavia's Kosova Province who lived a law-abiding existence for 35 years in the Bronx, then returned home to avenge his father's death a half-century earlier. So in the Bronx, Albanian men would

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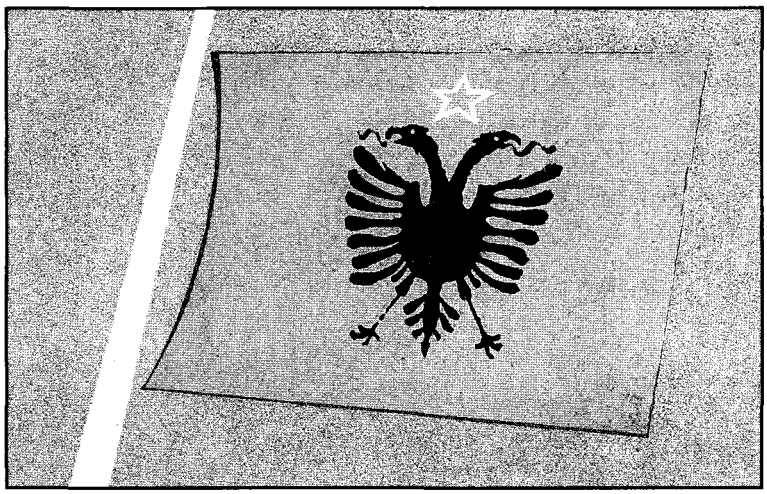

quite reasonably arm themselves in case they encountered a rival from the Old Country below the elevated tracks of the #2 train on White Plains Road.

Anton Cetta and his Commission for the Forgiveness of Blood came to the Bronx hoping to end it all. "The time has come for us to all shake hands," Cetta, a professor at the University of Kosova, told the warring Bronx factions, "because the blood feuds have destroyed the Albanian nation." What's more, many feared the Albanian blood feuds might destroy Pelham Parkway, or at least that portion of the neighborhood the Albanians have claimed for their own.

A private people, Albanians maintain an unostentatious presence in the Bronx. There are no discotheques blaring pulsating Albanian rhythms or restaurant signs proclaiming "Albanian-American Cuisine." Yet according to community organizers, Albanians own about 35 percent of the pizzerias in the Bronx, usually under the names of their former Italian owners, like Nicky's on Fordham Road and Tony's on Arthur Avenue.

The greatest Albanian success story, however, has been in real estate. Albanians now own as many as one-third of the privately held buildings in the Bronx. For many Albanians, the first step on the road to owning real estate is taking care of someone else's building. After World War II, many Albanians came from Italian refugee camps, and the Bronx soon developed a swarm of Italian-speaking Albanian supers. In the Bronx, the Albanian super is a kind of folk character, renowned for his ability to get the job done, sometimes in unorthodox ways.

As in the pizza business, the newcomers had no intention of remaining the hired help for long. In Pelham Parkway they still tell the story of Peter Mrnaci, an Albanian super who used to kid his Jewish landlord, "One day, I'll own this building." Years passed and Peter saved and then, one day, the landlord decided to sell. True to his word, Mrnaci became the landlord, and the landlord, his tenant.

As good landlords, Albanians are also good neighbors, helping to preserve the integrity of their buildings and their community. In a city that makes it difficult for landlords to evict drug dealers and destructive tenants, the Albanians have improvised ways to keep their buildings neat and safe. Some have eliminated the drug problem in their buildings by providing free apartments to undercover cops; others brag that they scare away dealers with fists, bats, and, if necessary, guns.

There are other, less salutary sides to Albanians' legendary prowess as landlords: When tenants complain about services, some Albanian owners have been known to pretend they don't speak English. And woe to the tenant who incites an Albanian to a grudge match:

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When one group of women repeatedly complained about the lack of heat in winter, the owner turned it on in the summer, saying something like: "You want more heat? Now you got it." But their occasional excesses must be measured against the Albanians' accomplishment: preserving a safe, orderly middle-class neighborhood.

Why have the Albanians succeeded in the Bronx, where so many have known only failure, poverty, and decay? Like other immigrants, Albanians rely on close-knit family ties. Brothers and sisters frequently live in the same home along with their spouses and children. Everyone works and puts the money into the same bank account. After a couple of years, the family has enough to invest in a property.

Albanians brag that they scare away drug dealers with fists, bats, and, if necessary, guns

Just about every Albanian with parents abroad also sends money home. It costs about $150 a month to support a family of five in Yugoslavia's ethnically Albanian Kosova Province, and Albanian political organizations there regularly send lists of the neediest to compatriots in the Bronx. Some of the wealthier Bronx real estate owners sustain as many as fifty Kosova families each.

Albanians in the Bronx also benefit from extended clan ties, both ethnic and religious. They are almost all members of the Geg tribe, indigenous to the barely penetrable mountain regions north of the Shkumbin River. (The other major group of Albanians in New York, Tosks, came from the farming regions south of the Shkumbin and gravitated mainly to Manhattan and Queens.) Most Gegs are either Sunni Muslims or Albanian Catholics; after World War II many received help from Church-run resettlement organizations working out of refugee camps in Italy. The Albanian Catholic Church split from the Vatican at the beginning of this century, when Albanian priests refused either to celebrate the Mass in Latin or to turn in their guns. Our Lady of Shkodra Albanian Roman Catholic Church on Park Avenue in the Bronx still flies the American and Albanian flags, but not the Vatican banner.

When a newcomer arrives from the Old Country, as some 7,500 Albanians have in the last decade, he is put to work as a super or in construction, whether or not he has a green card. The job may be a gift from a more established Albanian, but the newcomer is expected to take it seriously. If he works hard, his benefactors may one day help him acquire a building of his own.

Sali Nezaj is a typical case. He arrived in the Bronx in 1970, moving in with his cousins. While his wife spent nights cleaning offices in Manhattan, he worked in construction and diligently saved his money. In 1984, he made his first big purchase, a 19-family apartment house at Bainbridge Avenue and 198th Street. Today he owns four Bronx buildings and encourages his supers, immigrants from Jordan and Puerto Rico, to follow the same track.

Like other Albanian property owners, Nezaj had a lot of help fixing his places up. Albanians cut costs by doing their own repairs—electrical, plumbing, roofing, painting, plaster. On big jobs, other Albanians help out, sometimes free of charge, knowing that one day the owner will return the favor.

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And every Albanian, no matter how poor, comes to this country with one other key asset: a rigid code of honor. Albanians succeed in part because they can operate outside the tangled web of city regulations that makes it so difficult to start and sustain small enterprises. Albanians don't always need formal contracts or mortgages either, because, as Gregory Lima, an Italian-American who serves as public affairs coordinator of the Albanian Benevolent Association, puts it, "They'd rather die than break their word." Realtor Rexh Xhakli, 52, has lent Albanians he barely knows up to $80,000 on a handshake—without interest. "You don't charge a brother interest," he explains.

Nor do Albanian small businessmen often have to deal with the heavy taxes imposed by organized crime. As far back as the Ottoman Empire, Albanians were notorious for refusing to pay imperial taxes, and today in the Bronx they'd rather give up their business—or worse—than pay tribute to the Cosa Nostra. Mobsters have learned not to shake down Albanian business owners, for fear that thirty years down the road the owner's son might kill the son of the wise guy to repay the indignity.

"Outsiders look at us as landlords who carry guns," says Alex Lekutanaj, a 26-year-old real estate manager. "They don't look at the honor and traditions."

The Albanians' sense of honor—and their taste for blood feuds—can both be traced to a tome of etiquette named for a fifteenth-century aristocrat: *The Canon of Leke Dukagjini.* It is a book that can be found in many Bronx living rooms, along with the black two-headed eagle on the Albanian flag, decanters of plum brandy from the Old Country, and picture of Scanderbeg, a prince who defied the Ottoman Empire. In the children's rooms, next to Barbie dolls, sit likenesses of Nora, the fifteenth-century Albanian girl who assassinated a Turkish sultan.

It is in the *Canon* that the peculiar mix of honor and ferocity that make up the Albanian character is most starkly on display: "Upon entering the house, the guest must give you his weapon to hold," one section stipulates. "Holding the weapon is: A) a sign of valor and honor, as well as an indication of your pleasure that a guest has come to you; B) a sign of guardianship, since after you have said, 'Welcome,' he must have no fear and know that you are ready to defend him against any danger."

"If I give you my word that I am going to protect you, nothing in the world can stop me," notes Gjovalin Nikci, 27, the first Albanian printer in the Bronx.

When blood feuds erupt, Albanians insist, it is never a case of violence for the sake of violence. It's always over honor. But Isuf Hajrizi acknowledges that "Albanians have fought for really stupid things," citing land and women as the two main causes. Among other acceptable provocations for

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blood feuds outlined in the code: violating the hospitality of a host by insulting his friend or worker, robbery, failing to repay a debt or obligation, and removing the cover of a cooking pot on your host's hearth.

Once an Albanian is killed, the feud can quickly escalate: Male family members are responsible for preserving the honor of the deceased—even if it takes generations to obtain revenge. But there are limits, even in blood feuds. The *Canon* stipulates, "If two groups are fighting and one hundred men have been killed on one side and not a single one on the other, the rifles must be put aside and the firing must stop if someone interposes himself between the two groups." In some parts of Montenegro, village elders establish a cut-off point: After a certain number of people are killed, the blood feud is officially terminated. "In my village, it was 21," Nikci remembers.

After a certain number of people are killed, the blood feud is officially terminated. "In my village, it was 21," Nikci remembers

What if the combatants refuse to end the feud? The *Canon* has an answer for that as well: "If the firing and abusive language does not stop after the mediation, there is a tremendous rain of bullets and a confusion of rifles until both sides are destroyed."

It took a man of Cetta's insight and stature to realize that, as the twenty-first century looms, *The Canon of Leke Dukagjini* may not be the most productive guide to personal conduct. In Kosova, Montenegro, and Macedonia, Cetta visited more than 1,500 families embroiled in feuds, showing sympathy to their predicament, but sternness in his demand: Blood feuds must end, for they were obstructing efforts to create an independent Albanian republic in what is now Yugoslavia.

In the past, when a blood feud was resolved, the guilty party would send a mutual friend to the other family to request forgiveness. When Cetta ended a blood feud, he never asked forgiveness in any individual's name, but in the name of the Albanian nation.

After Cetta's visit, blood feuds suddenly fell out of vogue in the Bronx. In the course of a week in July 1990, ten oaths of revenge were retracted, another 12 potential blood feuds quelled. Cetta and his entourage moved on to Detroit to counsel Albanians there.

Nikci remembers feeling nervous about attending local weddings, lest he get caught in the cross fire. Now he says that although not all blood feuds have ended, Albanians' attitudes have changed: When neighbors are on the verge of violence, the name of Cetta is invoked, and everyone steps back from the brink and reevaluates his anger. "The only comparison I can make is to Gandhi," Nikci says.

As fighting intensifies in Yugoslavia, the number of Albanian immigrants streaming into the Bronx is likely to increase. Here in a borough that the rest of the city has largely written off, Albanians will continue to flourish quietly—aware that it is the sometimes rigid constraints of Albanian culture that have enabled them to prosper here.

Even those outside the tribe must give the Albanians their due: Obstinate, chauvinistic, even occasionally violent, they may be. But if you've been to Pelham Parkway you know that they keep a nice neighborhood. And today in inner-city New York, that's no small virtue. ■

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DIARIST

Terminal Illness

by

James Taranto

The Port Authority Bus Terminal seems designed to make the commuters who use it—mostly from New Jersey—feel at home; it resembles a suburban shopping mall, albeit a rather dreary one.

But the commuters who pass through the Port Authority en route to the suburbs and the tourists who arrive on long-distance bus lines have long been assaulted by some of the most unsavory elements of urban life. Panhandlers try to intimidate passers-by into forking over change, apparently having learned fear is more profitably exploited than guilt. Hustlers accost tourists, demanding to know where they are going and hoping to collect a small fee for telling them how to get there. Others offer to carry baggage, and sometimes carry it away.

This past December, the Port Authority finally began doing something about these problems, and about the most visible and pervasive blight on the terminal—the vagrants. They had provided a constant, visible reminder that the authorities were unable or unwilling to provide for the safety and comfort of the people for whom the terminal was built. They sat around drinking; they rooted through garbage, looking for cans and bottles to redeem the nickel deposit. They slept everywhere: in passenger waiting areas, in stairwells, in front of the Eighth Avenue Subway entrance, even on curbs next to the loading buses.

Over a period of several months last year I realized that one fellow had put down roots at Gate 210, where I caught my New Jersey Transit bus to Hoboken. One day I got fed up with his presence. I went to the nearby courtesy phone and rang the Port Authority Police, asking that an officer be sent to remove the intruder. It was done, but the next day he had returned. Every day for the next few weeks I called the police and had the vagrant removed, and every time he came back.

Once I received no answer when I tried to call the police. I ventured down to the terminal's concourse and found a Port Authority police officer. I told him there was a vagrant sleeping in my gate.

"You mean a homeless person?" the cop asked.

The officer told me there was little he could do. A Legal Aid Society lawsuit, he claimed, had won for the homeless the right to sleep in the terminal. He reluctantly accompanied me back to the gate, however, awoke the man, and ordered him to leave. The next day, of course, the loiterer was back.

Things have improved markedly under the new program. Posters around the terminal announce the rules: no sleeping, panhandling, public drinking, smoking, or loud radios. Those caught engaging in forbidden activities are evicted and referred to appropriate social services. The police seem serious about the effort: When I wandered around the terminal for half an hour one December afternoon, I found only three people sleeping on the floor; previously, I could have seen that many by standing in one place.

Predictably, the Port Authority has come in for some criticism over the effort. THE HOMELESS ARE MOVING ON BUT THE CRIMINALS STILL LINGER reads a recent *New York Times* headline. The argument is familiar: The resources being directed against those euphemistically called "homeless" could be used to fight "real" crimes.

There are two problems with this argument. First, as George Kelling has noted in these pages, disorder leads to crime. The chaos that prevailed at the terminal until December may well have been what made it a magnet for criminals. Second, the current crackdown is noticeably improving life for the terminal's users. No longer must they endure filth and squalor simply to get to and from work. It may not seem like much, but it's made the city a bit more livable. ■

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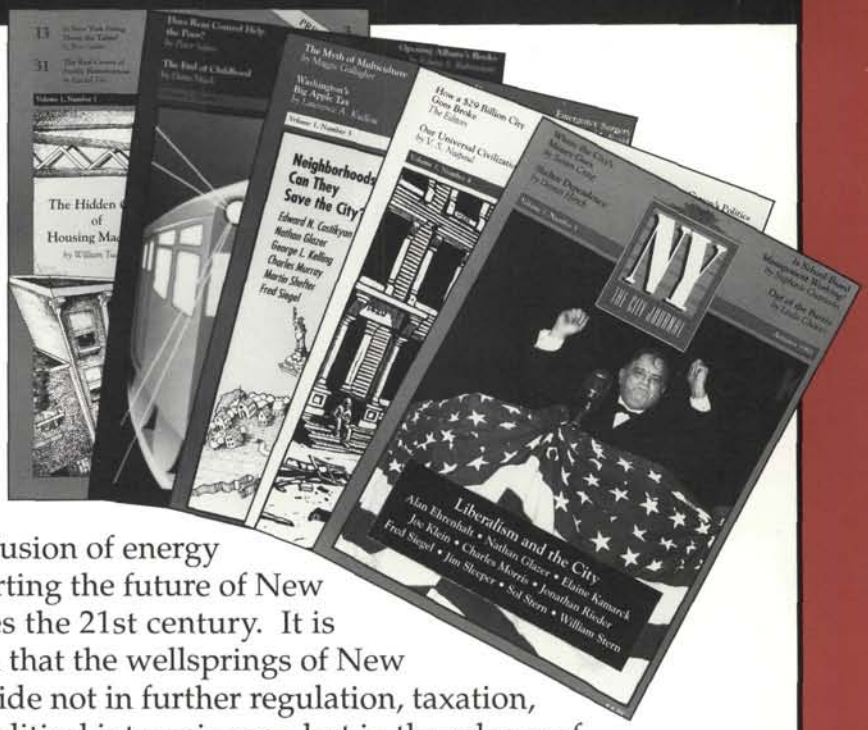

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